
ICANN Transcription

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

Tuesday, 29 September 2020 at 13:00 UTC

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ANDREA GLANDON: Good morning, good afternoon, and good evening. Welcome to the Review of All Rights Protection Mechanisms in All gTLDs PDP Working Group, being held on Tuesday, the 29th of September, at 13:00 UTC. In the interest of time, there will be no roll call. Attendance will be taken by the Zoom Room. If you are only on the audio bridge, could you please let yourselves be known now? Thank you.

Hearing no names, I would like to remind all participants to please state your name before speaking for transcription purposes and to please keep your phones and microphones on mute when not speaking to avoid any background noise. As a reminder, those who take part in ICANN multistakeholder process are to comply

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with the expected standards of behavior. With this, I will turn it over to our co-chair. Brian Beckham, please begin.

BRIAN BECKHAM:

Thanks so much, Andrea. Welcome everyone. Hopefully ... We tried to wait a few minutes but hopefully a few more people show up. This is a little light but it looks like we have, I guess you could say, a critical mass. And we don't exactly have full participation from everyone on every meeting. So, this looks like a lot of the usual participants. And I note, especially for the one of our agenda items, sunrise recommendation two, we have, effectively, some of the main proponents. So, we're not, I think, at risk, of leaving anyone out.

So, let me start by asking if there are any updates to statements of interest or any questions on the agenda for today. Paul McGrady?

PAUL MCGRADY:

Thanks. I have a comment on the agenda today, which is the second half of agenda item number two, related to the Small Team Two-suggested implementation guidance language. We did not see much by way of comment on this on the list over the last week. I believe David McAuley posted a comment. But it was essentially consistent with what he's said on calls.

Since we haven't really had any new, substantive discussion on the list, I don't know if we need to keep this item on the agenda to rehash positions people have already provided. I think the co-chairs probably have what they need to decide whether or not

there is sufficient support and sufficient non-objection, for what's it's worth. Thanks.

BRIAN BECKHAM:

Okay. Thanks, Paul. Yeah. And I've noted that there was relatively little email traffic on that. And I'm seeing ... Maxim, when you say you posted an update, I'm assuming that's with respect to this sunrise recommendation two—the second half of agenda item two. And I see Rebecca. And I think she was seconding what David McAuley had said. So, thanks for those interventions on the email list.

Paul, I don't know if that's an old hand. I'll call on Kathy. And then, if that's still a raised hand ... Okay. So, it's Kathy. Kathy?

KATHY KLEIMAN:

Yeah. Thanks. So, this is as a member of the working group, Brian. I think we've got it on the agenda and I think it's quite ripe for discussion right now. I don't know when else we would have that discussion or whether. It just seems ripe for discussion. So, I think we should go forward. I've just gotten into the room. So, we're at 17 participants now. It's not as many as we've had in the past but I think it's ripe. Thanks. And I think we should discuss it.

BRIAN BECKHAM:

Okay. Thanks, Kathy. I don't know if, Paul, you wanted to react to that. But why don't we kick off. We've covered agenda item one. So, why don't we kick off by the working group discussion of the

original language from sunrise recommendation two and take it from there.

And apologies, Ariel. I tried to get myself back into this prior to the call. But can you remind me the changes that we're looking at. Are those in green, or are those highlighted in yellow, or both?

ARIEL LIANG:

Thanks, Brian. So, staff didn't make further changes to the green text. That was the ones presented to the working group previously when this recommendation was discussed. There's only one paragraph that we inserted here—is to note the recommendation is not intended to preclude or restrict registry operators' legitimate business practice that are compliant with ICANN's policies and procedures. That's a paragraph that we inserted, based on the discussion of the working group.

Then, after that, as people noted, there are several members have commented on-list regarding their concerns with this new language. So, what staff did is basically put their concerns in the comment, on the side. And that's related to some of the bullet points in this new text. But I believe the working group needs to, basically, make a conclusion what they would like to do with regard to this new language and address their concerns. That's staff's understanding of the status of this recommendation.

BRIAN BECKHAM:

Right. Thanks, Ariel. And I think I had a similar question as Rebecca, from the chat. And by the way, maybe I can just call on you, Rebecca.

REBECCA TUSHNET: Sorry. So, yeah. I just want to make sure that we're clear. All the bullet points are not what was in the draft of anything. This came from the small group. And I just wanted to make sure. So, that's under discussion, too. Thank you.

BRIAN BECKHAM: Right. Yeah. Go ahead, Ariel.

ARIEL LIANG: Thanks, Brian. And thanks, Rebecca, for bringing this up. So, the bullet points, just to clarify, these are staff-developed language based on the public comments because, as you recall, ICANN Org did ask clarification for some non-exhaustive list of practice from registry operators that may have the effect of circumventing RPMs. So, staff put together these bullet points, based on the working group's agreement and direction, to ask staff to look at public comment and to provide the suggested text. So, these bullet points are not from the small team but from public. So, I just wanted to clarify that.

BRIAN BECKHAM: Okay. Thanks, Ariel. And then, just so I'm clear, at least, on the answer to Rebecca's question, everything that we're seeing on the screen is not coming from the small group. This is ... Either, if we look up to the sunrise final recommendation, this is something coming from the working group previously or the text in green comes from the working group public comments. Right?

ARIEL LIANG: That's correct, Brian.

BRIAN BECKHAM: Okay. So, why don't we go through the pre-small group material first. I think the first item was to see—and I apologize. I don't know where it came from—but the proposed addition of the word “intentionally” in the actual recommendation. So, the recommendation was that, “The working group recommends that the registry agreement for future new gTLDs include a provision, stating that a registry operator shall not operate its TLD in such a way as to have the effect of intentionally circumventing the mandatory RPMs imposed by ICANN or restricting brand owners' reasonable use of the sunrise rights protection mechanism.”

I'm not sure where that came from. But certainly, that seems like a reasonable addition, in line with the spirit of the recommendation itself. Are there any concerns or comments on this proposed addition of the word “intentionally?” Okay. So, we'll take that as accepted.

So, from there, we have the implementation guidance. Maybe I can quickly read through this and then we can open up a discussion on ... And one of the things is ... Just as Ariel mentioned, these were staff-created language coming from the public comments. So, these were meant to help flesh out what would be seen as intentionally circumventing some examples of that.

So, the implementation guidance basically, to assist the IRT, which would be formed to implement these recommendations, adopted by the Board from this PDP, assuming that happens, the working group has developed a non-exhaustive list of examples of registry conduct that may have had the effect of circumventing trademark owners' use of the sunrise period and trigger enforcement action by ICANN Org. This list was developed based on trademark owners' and business sectors' input, as raised in working group deliberations and public comment.

And you mentioned that this was an additional sentence here in the middle, "The working group further notes that this recommendation is not intended to preclude or restrict registry operators' legitimate business practices that are compliant with ICANN policies and procedures."

So, I'm not sure there's much need to go over the preamble there. But are there any questions or concerns with that first sentence, in highlighting there—basically clarifying that whatever recommendation comes out on this point would not be meant to overtake registry operator business practices that were otherwise compliant with ICANN policies. Phil Corwin? I think you may be on ... There.

PHILIP CORWIN: Okay. Can you hear me?

BRIAN BECKHAM: Yes.

PHILIP CORWIN: Yeah. Thank you, Brian. Speaking in a personal capacity, I would suggest that in this first paragraph, since it's explaining and putting a gloss on the initial recommendation, that since we just added the word "intentionally" in front of "circumventing," in the recommendation itself that we should do the same thing in the third line of the first paragraph here so that it mirrors the recommendation.

BRIAN BECKHAM: Thanks, Phil. That makes sense. Any comments or objections to that? Okay. So, thanks, Ariel, for adding that. And I'm seeing some support for that suggestion in the chat. I'm also taking it there are no concerns or comments on the first highlighted sentence there about the interplay between this recommendation and ICANN policies.

Okay. So, let's move to the examples that were drawn from the prior working group deliberations and the public comment and see if there are any concerns or questions about these. So, some of the primary forms of perceived sunrise abuse by registry operators include withholding reservation or self-allocation of trademark-corresponding domain names—corresponding domains? —with the intent of circumventing or discouraging the use of the sunrise period by trademark owners; discriminatory pricing practices designed to leverage the need for defensive sunrise registrations, including excessive pricing of sunrise domains with the intent of targeting trademark owners, either specifically or as a general class of registrants.

Are there any concerns or suggestions regarding these two bullet points as examples to flesh out the recommendation about not circumventing? I see Rebecca and then Maxim.

REBECCA TUSHNET: Thank you. So, I think ... Let me say, “perceived sunrise abuse” is not super helpful. So, this is where the rubber is hitting the road. We are either going to say, “These types of conduct do justify enforcement,” and if so, what are they? Or we’re going to say ... Or if we can’t agree, then we should be pretty clear about that because “perceived sunrise abuse” is not very helpful. Do we have consensus that that sucks—should have lost its rights? Maybe we do. I think that’s actually a live possibility.

But right now, what it’s framed as, “Here’s a list of things that some people thought were abusive,” without us saying, as we do in other places, “The working group didn’t reach a consensus here,” which is kind of important information. So, I just think it’s framed in a way that’s, at best, confusing. Thank you.

BRIAN BECKHAM: Okay. Thanks, Rebecca. I have Maxim and then Jason.

MAXIM ALZOBA: Do you hear me?

BRIAN BECKHAM: Yes.

MAXIM ALZOBA:

If we apply the words as it's written now—and legal text, you just read line-by-line and apply it—we will see that, obviously, reservation of names done by geos will fall, using this definition, into bad practice because nothing in these words say that they did the right thing. Otherwise, these words say that what was done—like reservation of metro.city, police.city—was a bad thing because it obviously discouraged use by trademark owners.

And to say more, [inaudible] words, trademarks, they were reserved and they will be never released in some cities because of some concerns of moral. And, obviously, it discouraged the use of the sunrise period by those trademark owners. So, I think these sentences, they're saying nothing about existing policies of TLDs because not all TLDs are generic.

And second thing, we're criminalizing, effectively, all geo TLDs because all of them did that. And I don't think it's the right way to do because what we will see, lots of local laws will be changed. We will see situations where we have a disaster—basically, dismantling our multistake model—because we don't like to allow what happened last time. I'm not saying the trademark owners are going to do that. But formally, these words, they're applicable to ... If we apply those rules in the past time, those deeds would be recognized as a perceived as a perceived sunrise abuse thing.

BRIAN BECKHAM:

Right. Thanks, Maxim. I know Griffin made a comment in the chat about the relation of your comment with the preamble. And I think, certainly, the intent ... Of course, if I'm wrong, please, someone correct me. But certainly, I don't think the intent was to, as you

say, penalize geo TLDs, for example, if they reserve the name “police” or what have you. I think that the ...

So, in other words, let me put it this way, Maxim, if I can ask you and others to respond. I think that maybe it’s a question of language here. In other words, the intent wasn’t to suggest that a TLD that reserved a name for its police or what have you, under a launch program, and that happened to be also a brand that’s in the Trademark Clearinghouse that would have liked to have purchased a name in sunrise—that that is an example of circumventing or ...

And I understand there’s maybe a little bit of confusion around the word “discouraging” because, in a sense, it is exactly doing that. It is discouraging the use of the sunrise period by the trademark owner. But it’s in keeping with an intention to get it in the hands of another legitimate party. So, that goes to that preamble question. So, I think, probably, it’s a question of language here and the intent is certainly not to say that the example you’ve raised about the geo TLD and the term “police,” for example, would be prohibited.

And I’m seeing that Paul McGrady’s asking for an example of this and Maxim is asking to respond. So, I have ... I’ll let you respond, Maxim. And then, I have Jason and Kathy. Maxim?

MAXIM ALZOBA:

Real-life examples ... For example, in .moscow, police.moscow and politsiya.moskva—it’s the Russian equivalent—they’re going to go to the police department of the city. They are not fast. It’s a huge bureaucracy. And for departments like that, five years is

nothing. So, they're still reserved. Also, we have a live list of a few thousand foul language words which will never be released. And many of those are trademarked within that. I believe it's real-life examples. But also, it was real-life examples from .rio, mentioned at the previous meeting by Rubens Kuhl, where airport.rio was challenged. Thanks.

BRIAN BECKHAM: Right. And so, I think we've heard that the police is a good example that we all know and love. But I think, Maxim, the question that Paul's asking was that attempt to reserve the name "police" in .moscow ... Even if it took some time to get it into their hands, was that held out as an example of a registry operator intentionally circumventing the RPM? I don't want to put words in Paul's mouth but I think that may be the question.

MAXIM ALZOBA: If I may?

BRIAN BECKHAM: Yes.

MAXIM ALZOBA: A long list of names was reserved to be handed to city authorities—wholly-owned subsidiaries of cities—of city authorities like a special company which takes care about parks. They're wholly owned by the city and things like that. It's a few thousand names. But there were no intention.

Also, I remind you, registries, they do not know what's in the TMCH. We are actively prohibited from contacting TMCH. So, we do not know. But formally, if you apply that language, we will see that some trademarks, obviously, never reach the hands of their owners because of that. And also, those were ... Some of those names were delivered to the city in round where only authorities were allowed to apply for names.

BRIAN BECKHAM: Right. Thanks, Maxim. I think that's very well understood. Maybe ... I see there's a little bit of a queue and a hand from staff. Maybe, if I can call on Paul McGrady since he initiated the question, and then staff, and then we take it from there. Paul?

PAUL MCGRADY: Thanks, Brian. So, basically, Maxim said that this police.moscow is on a reserved list. It's been on a reserved list for five years. No trademark owner has objected to this. But its still, somehow, proof that trademark owners are going to object if this language is adopted. So again, it's a non-example for a non-problem. And when it comes to policy making, we have to figure out what's likely to happen. And if something consistently and persistently doesn't happen for five years, that's probably an indication that it's not going to. So, I think this is a red herring. And we need to get past this and get on to getting serious about this language so we can get it done. Thanks.

BRIAN BECKHAM: Thanks, Paul. I think, Ariel, you have your hand up.

ARIEL LIANG:

Yes, I do. Thanks, Brian. So, staff is hearing a lot of comments regarding the concerns of these bullet points. May we make a suggestion? And hopefully, it can help the working group move forward. What if we move the bullet points down to the context portion of this recommendation and note that this is the opinion of some working group members and these are some of the forms of sunrise abuse that some working group member agreed on?

And then, also note some of the concerns or other additional opinions offered by members like David, and Rebecca, and others, so that we provide a more—a fuller picture with the working group discussion of these points. And so, we just moved away these four points into context, to provide that information, instead of leaving it here as implementation guidance. Would that be a feasible solution? We just hope this can help the working group move forward.

BRIAN BECKHAM:

Yeah. Thanks, Ariel. And I think Rebecca may have alluded to this in the chat. And I was thinking something similar— “Some people have commented. These are some examples.” It may be that that last clause in particular could use a little wordsmithing.

But I think that could be useful because, of course, don't forget everyone ... And I know Jason's asked for the floor. But we did agree on the big picture recommendation that the intentional circumvention, obviously to the extent that there's an interplay between that and ICANN policies that are otherwise—registry operator policies that are otherwise compliant with ICANN

policies. But we have agreed on the big picture. And so, this is just trying to flesh that out. And it could be that different people have different opinions. So, that could be an elegant way through this. I have Jason, then Kathy, then Phil.

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

BRIAN BECKHAM: Can you hear me?

JASON SCHAEFFER: Okay. Thank you. I think this discussion highlights the exact reason why we need to have this discussion. I don't believe this is a red herring. And I'm hopeful that, together, we can actually come up with some more precise language. I think the problem that we're faced with is ... And I'm hoping the smaller group actually discussed this issue and actually has examples, other than, perhaps, .sucks, that are examples of the complained-of problem.

The issue, having worked with many registry operators and having discussed this among the working group members, as I understand it, there may be a tension between the obvious of issue of what we'll call a dictionary word, or a common word, that also happens to be a party's trademark.

And in those cases, I need not belabor the point. Everybody here understands that tension. Everybody understands that's how we have the dispute resolution process in our DNS. We have to figure

out how to deal with when you have a common word and you also have a trademark. And trademark rights, in the non-domain world, have limitations due to classes, goods and services, and usage, as we all know. I'm not here to educate anyone. But I'm simply highlighting that this is where the tension comes into play. And it's coming into play right here.

So, we could have a reasonable debate, as a registry operator versus a trademark owner over what words are appropriate and maybe not appropriate for a reserve list. So, I'd like to know what we're really talking about here. If we're talking about what .sucks did, as, I think, Rebecca said earlier, maybe there is some consensus on the issue. Maybe not. I don't know. But it would behoove us to have a little bit more clarity.

Again, this also gets into the issue of the TMCH, as we don't know what's in the TMCH. So, that's one issue. And then, the other issue is the gaming of the TMCH and issues that we've debate extensively.

So, perhaps we can, instead of placing a burden on the registry operators to provide the real-world examples of this harm, I'd like to hear from the smaller group members, or perhaps Paul or others who were discussing this, what are the exact harms? Rather than more vague or general language, perhaps we can get some language that we can all coalesce around. Thank you.

BRIAN BECKHAM:

Yeah. Thanks, Jason. And I wish ... I think Susan Kawaguchi ... I don't know if she's a member of this working group but I think she has raised some specific examples, in the past, of this type of

conduct. I think it's clear to me, at least, that certainly, the intention was not to suggest that registries couldn't apply launch programs or try to get names in the hands of people. And that, of course, has a negative relation on what would otherwise be an open, free-for-all sunrise period.

I think that tension is something that doesn't ... In other words, that tension doesn't undo the recommendation. Maybe there's a need to reflect that a bit better, whether that's in the implementation guidance notes or in the examples. But again, I think we had agreed on the broad recommendation that the intentional circumventing shouldn't be allowed. And we're trying to just help flesh that out a little bit.

One suggestion could be—and I'll call on Kathy, Phil, and Jason—could be that we—and I'm also saying this in the interest of time, a little bit—is that we agree on the recommendation, assuming that's still the case, and leave the implementation to the IRT. We can mention, "Some members said this. Some members said that. Some public comments reflected this or that experience" and leave it to the implementation team that looks at this. Kathy?

KATHY KLEIMAN:

Coming off mute. Hi, Brian. So, this is hard. It's hard to wordsmith with so many good people on the line. But I wanted to support the moving of this into context. Also wanted to support the line introducing the bullet points to be clarified. So, some primary forms have "perceived sunrise abuse by registry operators include ..." The "by registry operators" could be, "Registry operators are doing this," or, "This is what registry operators believe." So, I think

we should clarify some primary forms of perceived sunrise abuse, as shared with us in the comments by the IPC, and the BC, and other commenters. Because it's really the trademark owners expressing this.

So, I think we should clarify that, then balance the language, as discussed, with what Maxim said, what David said, what Rebecca said. And then, I think we've got a pretty good summary, in the context of what our back-and-forth has been.

I'll note our resolutions that we did not agree to publish reserved lists or premium lists. So, we may want to include a reference to those recommendations as well. But thanks for guiding us through this wordsmithing—this very important kind of word balancing issue. Back to you, Brian. Thanks.

BRIAN BECKHAM:

Yeah. Thanks, Kathy. It sounds like we're coalescing around the idea of leaving the level of agreement at the big recommendation and then parking some of the comments that were perceived in the context portion. That would be turned over to the implementation review team, that can then take that particular ball and run with it. I have Phil and then Jason.

PHILIP CORWIN:

Thank you, Brian. Making these remarks in a personal capacity. One, I think Ariel's suggestion that some of this language be moved out of implementation, into context, is a useful one.

Two, I just wanted to remind everyone that our ... What we're trying to do here is that the public comments on this, those who commented were about two-to-one in favor of this and that the Contracted Parties House supported it in principle but wanted more specificity so they would know what conduct might trigger an enforcement action, and that ICANN Org also wanted that, and that when this gets to implementation, one can imagine that both ICANN Org and the Contracted Parties, particularly Registries, will be active in the IRT, in working towards something that is clear as to whether and what isn't prohibited.

I think if we go through this, it's important to remember that the purpose of the sunrise RPM is ... And we know that trademark owners do not seek to register their mark during sunrise in all TLDs. They discriminate themselves, in terms of which ones they think are important. But the purpose is to allow the trademark owner, when it perceives a risk that if it doesn't register in sunrise, that the domain may be registered by someone who intentionally infringes on their mark. And it's to prevent that possibility by giving them first option to buy it.

So, with that as context, I do have one specific suggestion. In the first bullet point, I would suggest striking the term "or discouraging." It just doesn't seem to fit in, to me. Everything else in this recommendation and in the first paragraph of the implementation guidance talks about intentional circumvention of the sunrise RPM by a registry operator. But here, we have intent of discouraging, which is a totally different concept that circumventing.

And that concerns me because I think it introduces an element of uncertainty that takes us away from our task right now, which is to provide greater clarity about the types of activities that may trigger an enforcement action, if this recommendation received consensus support. Thank you very much.

BRIAN BECKHAM: Thank you, Phil. That sounds like a useful suggestion, to strike the word “or discouraging” because, in a sense, that is what’s happening. It’s just that the discouraging is undertaken for a legitimate purpose. I have Ariel and then Jason.

ARIEL LIANG: Thanks, Brian. I think Jason is actually before me. So, if Jason would like to go ahead, I can go after him. It’s more about the timeline, regarding revisiting the revised language. So, we can go after Jason.

BRIAN BECKHAM: Okay. Go to Jason.

JASON SCHAEFFER: Okay. Thank you, Ariel. Yeah. Phil’s suggestion there is helpful—helping move the ball forward. I think getting rid of “discouraging” is a good idea. Therein lies one example of how the vague language could be used in different ways. “Discouraging” could be ...

And I know there's some other parties here. I think Alan Woods from Donuts is here. There are registry operators that could argue—and indeed, I know this to be the case—that if a party is not choosing to utilize sunrise, there could be pricing or reservation of names to help protect the actual trademark owner. In fact, I know that is the intention in many cases. That's not to say it's always the case but in many cases, it is. The registry operator's trying to be responsible and do something that is actually helpful.

So, when we get into this subjective territory, it's critical that we have some better clarity here. And I think if there are others here that can speak to the exact examples, perhaps we could get some more language that I think would at least make me more comfortable, and a few others, to get behind this. But the subjective nature of this is where it gets a little bit dangerous. Merely saying “reserving names,” or “allocating names,” or “pricing—” as we know, the picket fence issue—that's territory that can be troublesome. So, if we have some more specifics from those that are aggrieved, I'd be happy to see if we can get a little bit more tightening of this language to get where we need to be.

BRIAN BECKHAM:

Thanks, Jason. So, I guess that leaves us with the question of ... And this is noting that we're ... And Kathy I see your question. I think David McAuley had a hand raised for when we get to that second bullet point. I think we've come to the idea of moving this text—the examples—down to the context, and also noting that these are the views of some members or some public commenters, and maybe contrasting that with other views.

That does, of course, leave us with the question of which specific language we land on. And so, the question is whether we want to do that here on today's call or try to—if staff wanted to try to work on that and come back with something that we can look at, either on the email list or on a future call. And I see Ariel is putting her hand up. Ariel?

ARIEL LIANG:

Thanks, Brian. In fact, I'd like to provide some response to your question about the timeline. So, staff is happy to work on this language, based on the input from the working group members today, and move the bullet points down to context, and perhaps open the bullet points with the following sentence, such as, "The following are examples of registry operator conduct that some commenters raised in their public comments as potentially have the effect of intentionally circumventing the use of sunrise period—" something like that. And then, contrast that with other opinions and concerns raised by the working group members.

So, we can work on this language offline and hopefully get to the working group ASAP—maybe later today or so—and then, maybe, working group can have until Friday to provide feedback on the list. And then, with the goal of closing out the final language on this by next Tuesday. So, would that be an okay path, in terms of the timeline to close out this recommendation?

And also, another suggestion from staff is if there's no chance of getting consensus on the final language, even for the contextual language of this recommendation, perhaps the context can just link to the public comments, instead of listing all these bullet

points. That's another alternative, if there is no chance to agree on the revised context language.

BRIAN BECKHAM:

Yeah. Thank you. Thank you very much, Ariel. I think all of that makes perfect sense, also, in terms of timing and would be very much appreciated by the working group. With that ... And I'm not seeing any objections or concerns being raised by that proposed way forward. With that, maybe can I ask if there are any additional items, whether it's specific language that's on the screen or maybe something that was raised in the public comment, or a specific concern that people here on the call would like to get in front of staff for that revision that will come back to us? David?

DAVID MCAULEY:

Thanks, Brian. I think that's a ... I appreciate your invitation. That's exactly what I'd like to do now. Thank you, Ariel. I think what you said makes great sense, including the language that you came up with as an introductory sentence to it.

I just wanted to briefly mention what I said in my email about the second bullet. And it's about the discriminatory—the notion of discriminatory pricing practices. And I just want to summarize and say I think that when we get to this, wherever it appears—in context or wherever it might appear—that it needs to take account of the fact that what that means is extremely high premium pricing, followed by an extremely lower or much lower subsequent pricing in general availability or in land rush, that's resulted in bad faith

registration and subsequent infringing use by a registrant that's not the—couldn't be the trademark owner.

But sunrise protection against cybersquatting has to be balanced against legitimate use of some inherently-valuable trademark common terms—dictionary words. And those are capable of non-infringing use, which would justify a premium price.

And the other thing I wanted to mention in this context, for staff to consider, is the picket fence. And that is premium pricing alone. Pricing alone is not a basis for a complaint, basically. And so, I think that needs to be recognized. I think the IRT is going to have its work cut out for it. It's going to have to be very cautious here. A lot of this kind of abuse isn't going to show up until sunrise is over, anyway. They're going to have to be very careful and mindful of the picket fence. And anyway, it's what I said in my email. Thanks very much, Brian.

BRIAN BECKHAM: Thank you, David. I have Rebecca and then Jason.

REBECCA TUSHNET: Thank you. So, two specific things to ask staff to do. First, given this, I think it would be a good idea to go back through the public comments, to create a similar set of bullet points as were pulled from the public comments on examples of abuse. Second, I actually do think there's an ALP interaction here with .madrid. That was one of the things being claimed, was that it was going to interfere with the rights—the RPMS. So, I think we should probably mention that. Thank you.

BRIAN BECKHAM: Thank you, Rebecca. Jason?

JASON SCHAEFFER: Thank you, Brian. Well, it seems ... I don't know. Can we add, right here, since we're in this language, a discussion about registry operators having ... I don't know. I don't want to say a list of enumerated offenses. But the idea is that, as David just mentioned, we should be cognizant of the picket fence and discriminatory pricing issues. We've mentioned we're talking about pricing here and we're also talking about reserved names.

So, why not expressly identify that working group members have specific concerns about the picket fence right here, where this is. And also, while we're at it, why not discuss that reserving common word or dictionary word domain names may be a legitimate practice?

BRIAN BECKHAM: Yeah. Thanks, Jason. And I just see Ariel put in the chat that that picket fence language was already in the context. And I think, if I remember, there was even a footnote where—and yes, it's showing up there on the screen—where that's defined. So, let me see if there's any ... Greg Shatan, please. Greg?

GREG SHATAN: Thanks. And I think that, by and large, the conversation's appropriate. The idea is that price alone is not sufficient. But if we

were to see a registry operator who was reserving names that corresponded to trademarks and not reserving names that did not, or that there was a pattern within there of taking—specifically targeting trademarks, whether or not they happen to be dictionary words, that, I think, would be problematic.

A list of dictionary words, some of which happen to be trademarks but which were not chosen for that purpose, and for which, on its face, does not look like it's targeting trademark owners or Trademark lists, I think, would not be problematic. There's going to be some overlap, given that. But I don't want to invoke the Potter Stewart "I know it when I see it" rule. But to some extent, I think you know it when you see it.

Even if some registry operator were to be so canny as to choose all the best dictionary word trademarks, and only reserve those, and not reserve any dictionary word non-trademarks, that would be problematic. That's an extreme example. But that's ... Even if they were not to reserve any fanciful or arbitrary remarks, that would be problematic.

So, I think the idea is to try to isolate what's a reasonable, appropriate practice for reserving names for their inherent generic value or lack of value, versus their trademark value or lack of value. I'm sorry I don't have a pithy way to put this in. But that is at least, I think, trying to aim for where the problem is without going over and triggering legitimate registry operator decisions. Thanks.

BRIAN BECKHAM: Thanks, Greg. I don't know that ... I apologize on the order. But I have a hand up from Ariel and then Jason. Maybe we can go in that order.

ARIEL LIANG: Thanks, Brian. So, I just wanted to quickly respond to, I think, Rebecca, and Jason, and Kathy's suggestion of going back to public comment and look at other additional opinions to include. So, I just quickly went back to the public comment review tool.

So, the reason why we only have these four points regarding the perceived sunrise abuse examples is because it stemmed from some recommendation—question number two—that's specifically asking public comment contributors to provide explanation or a description of any abuse of sunrise period identified by them. So, that comes from those information. And it didn't really ask for other kinds of opinions. So, that's why we're limiting the bullet points related to that.

And then, I was looking at the sunrise recommendation two. And most of the comments that oppose this recommendation around talking about the language is too broad or vague but not really giving examples, etc.

So, what staff suggests is we stick to the original plan to basically move the bullet points to the context and then just focusing on the examples provided by some public comment contributors and then supplement that with opposing opinions, based on the discussion of the working group, instead of going back to the public comments. But we can provide link to the public comment, in case

people want to read more about the information gathered there. So, hopefully, that's helpful.

BRIAN BECKHAM: Thanks, Ariel. I think, Greg, that may be an old hand. And I see Jason. Jason?

JASON SCHAEFFER: Thank you, Brian. I think what Greg just stated is very helpful. This is the exact point of what we should be doing, is having this discussion about the details. And I also would like to note that this discussion has taken itself in many different forms. And indeed, this question two has morphed from a PDDRP discussion that is now being subsumed into this question two.

So, in fairness, I think it's important that the discussions of this working group, particularly today, and the concerns raised be memorialized here. But I'd like to see if we could be productive and take what I've suggested and what Greg is suggesting and see if we can get some language.

Now, obviously, maybe that's not for today's call. But I think it's imperative that we figure out a pathway forward so that the IRT can do its job. As the chat has shown, and as we discuss now, we're talking about highly-subjective issues. But surely, allowing the IRT to understand the depth of this dispute and this discussion is important so we can get effective tool out there. Thank you.

BRIAN BECKHAM: Thanks, Jason. So, there was a comment from David McAuley earlier about the—if we move the discussion, as Ariel suggested, will we separately address the additional guidance from the small team now or on the list? David wanted to comment on that. David, can you remind me what was that additional guidance from the small team? Is that separate from the one-time proposal to move this over to the PDDRP? Ah. There we are, on screen. So, exactly. This was about the possibility of a third-party challenge mechanism. David?

DAVID MCAULEY: Brian, I think you just captured it. It's about the third-party challenge mechanism. It began life, I believe, as part of a recommendation regarding TMPDDRP. But it moved over to additional implementation guidance for sunrise rec two, an external compliance mechanism. I'm not sure I'm picking the right words but I think you just captured it. Thanks.

BRIAN BECKHAM: Thanks, David. So, if I can just interject here, an observation. I think ... So, we've agreed on the broad recommendation that a registry operator shouldn't operate its TLD in a way of intentionally circumventing RPMs. We've also recognized—and I assume we all agree—that there are ... A large number of dictionary words are also trademarks, wherever they may be and in whichever classes. And I don't think that anyone is suggesting that, somehow, registries having reserved names lists or charging premium pricing for certain dictionary words is somehow a violation or intentionally circumventing the RPMs, in and of itself.

I think—and I'll just give an example—is that if it comes to light that a new registry is charging, let's say, \$20 in general availability, they're charging \$100 in sunrise, and they're charging \$500 for premium names. I fully appreciate that it's more nuanced and that prices vary. But I'm just using that as a broad illustration. And then, it comes to light that a certain batch of dictionary words that are also trademarks is for sale for \$100,000—so, in other words, grossly disproportionate to the “normal” pricing across those different types of availability periods. I think that's really what we're talking about here. And we're struggling to find the exact language to explain that, for whatever implementation team runs with this.

And so, I have a question, which is ... And I don't know, Paul, if you want to react to this or you had something similar to add. But a question, which is, if we agree that the registries shouldn't intentionally circumvent the RPMs, if someone observes that that's happening, how can they report that and, either themselves, or flag for ICANN to address that, I think is a question that seems to be hanging out there, whether that's this third-party challenge mechanism that's on the screen or something else. For me, that's still kind of an unanswered question. Paul McGrady?

PAUL MCGRADY:

Thanks. So, I guess this ... I raised my hand, originally, because we seem to have jumped to the suggested language from small team two, which is a third-party challenge mechanism. I'm not sure quite how we jumped here. It seems to be later on the agenda, unless we're now there, which is fine. But then, we seem still to be talking about the implementation—the higher-up

implementation language that doesn't seem settled. So, I guess question number one is where are we in this discussion?

Question number two is I'm not following the discussion anymore. It seems to me like what we're doing is arguing over people's opinions, rather than getting any kind of real implementation guidance to the IRT on how to implement the pretty straightforward language of the recommendation. And people's opinions are great—all for it. But maybe we can have the people's opinions section and everybody can stuff in whatever their opinion is into that section because none of this is implementation guidance that is in any way helpful to an IRT. It's just people's opinions.

If we don't have implementation guidance that we can all agree on, great. We've got people's opinions and a pretty straightforward recommendation. The IRT can take it from there. All the IRT's going to be doing is drafting a clause that goes into the Registry Agreement. And then, we all have to line up and make ICANN Compliance act as a third-party neutral because we don't have a third-party challenge mechanism with actual neutrals. And everybody can send in their complaints to ICANN, and everybody can send in their anti-complaints to ICANN, and just see what ICANN Compliance does.

But going back-and-forth and trying to put in our favorite positions and things like that really isn't budging this. And we're an hour into it. So, I guess what I'm saying is let's just create a people's opinions section. Everybody can put in their opinions. Leave the recommendation as it is. If we can't come up with implementation

guidance we all agree to, fine. And then, the IRT can sort it out. Thanks.

BRIAN BECKHAM:

Thanks, Paul. I think maybe we'll ... Instead of calling it the "people's opinions" section, we'll call it the "context" and the "public comment review." But certainly, I think what you're hitting on is that people have different views on this. And I was ... To your question, I think we're straddling both the first and second part of our agenda item today. And I was trying, with my example, to nudge that toward the second part of this.

So, maybe ... Could I ask ...? Do we have agreement that the first part—the broad recommendation ... We've previously agreed on that. Of course, we still have to do a consensus call. But I think that ... I certainly haven't heard any concerns raised about undoing the discussions we've had to come to an agreement on sunrise recommendation two. That leaves us, of course, with the question of how do we help inform the IRT? That can be more precise or that can be more open-ended by reference to public comments and working group deliberations, where some said this, some said that. If that's where we end up, that's perfectly fine. There's broad views on this.

I still think there is a question about how would one raise a perceived violation of this recommendation, whether that's to ICANN or some sort of a mechanism. So, let me see if ... I don't know if that's helpful—if anyone has any thoughts or any ideas to help move that forward. I see Greg Shatan and Kathy. Greg?

GREG SHATAN:

Thanks. I apologize. I have to actually get off after this intervention for a 10:00 call. But I've been kicking around in my mind language. And tried to be a little bit more concrete about this advice. So, not sure I'm exactly responding to your request. But I wanted to unload it. What we're looking for is a reserved names list or a series of reserved names that are indicative of a pattern or a practice of targeting trademarks, as such, or something along those lines. And that may not get us all the way there but I think that's kind of—at least what I've been thinking of as the threshold, is that it's indicative of a pattern or practice.

And I can recall, years ago, sitting and gleefully putting trademarks into, during the sunrise period, into—maybe it was .sucks. Maybe it was .top. Can't remember which one—and just watching numbers in the thousands come up. And then, I put another—a generic word that was interesting but not a trademark that I knew of and it was \$10. And it was ... You hit the jackpot every time. That was, in my—I believe, indicative of a pattern or practice, in terms of premium names. So, that is, I think, where I draw the line. Don't know if that's helpful but thanks, anyway.

The example's anecdotal because all examples are anecdotal, Maxim. It's a maxim that examples are, by definition, anecdotal. But thank you for noting that an example is anecdotal. I think we can take that as a given. Thanks.

BRIAN BECKHAM: Thanks, Greg. So, maybe where we're going with this—and I know we need to keep moving along—is that we have the recommendation. And I'm wondering if even the concept implementation guidance ... And then, the guidance there says, "The working group has developed a non-exhaustive list." In other words, if that may be, even the sticking point here ... In other words, if we don't frame it in terms of implementation guidance but we say, "Questions were raised about what would types of conducts be that would follow this. And here are some examples that were submitted in the public comment. A question was raised about how to report and enforce this."

But, in effect, basically flag that these are open questions for whatever IRT looks at this and leave it at that. Certainly, if we can get further, that's great. But I'm wondering if that might not be where we ultimately come out on this. Kathy and then David.

KATHY KLEIMAN: Brian, I'm going to agree with you. You just summarized it beautifully, I thought, which is that I think we stick with the language that we already have. And I'm not sure the language that was shown on the screen about the third-party challenge mechanism has the support to go forward at this point. But I like the way you navigated it. And thank you for continuing to move us forward.

BRIAN BECKHAM: Okay. Thanks, Kathy. David?

DAVID MCAULEY:

Thanks, Brian. I guess I have a question because I thought you stated it different a minute ago than you just did now. And what I heard a minute ago was that I think we've agreed to the sunrise final recommendation number two, with the addition of the word "intentionally." That is the language in black that that—green word "intentionally" added.

But I thought, on implementation guidance, we were going to still give that a go with staff taking an effort on it and people coming on-list—Greg's had some interesting ideas coming on-list—to see if that was feasible. And then, separately, deal with the additional guidance from the small team.

But now, I think what you've just recommended, Brian, is that the recommendation is what it is. It's agreed. But on implementation guidance, we will change that. It will now be just a series of comments. And if that's, in fact, where we're going, then I would not agree with that. I think we ought to give implementation guidance a try through staff's efforts.

But if we're going to put the additional guidance in there, as a thought that's equal with all the others, that there be a third-party challenge mechanism, then I'm definitely against that and I guess I'd have to put a placeholder for, maybe, a minority statement. I don't know if this ... I don't know. But I'll look at the language. But I definitely think that's something that I would like to oppose. Thanks very much.

BRIAN BECKHAM: Yeah. Thanks, David. And I apologize if I've interjected confusion. I wasn't suggesting that we shouldn't aim for implementation guidance. I was hypothetically wondering out loud if that's where we may end up, given the diverse views and the sticking points that we're facing here. But I certainly think it's worth a shot at staff taking the public comments and the conversation we've been hearing today to try to form that into some sort of implementation guidance and see where we land. And if we can agree on that and the particular language, that's fantastic. If not, certainly, the conversations and the public comments would be relevant context to provide to the IRT.

I saw Jason's hand go up and then down. So, I'm assuming, somehow, I've covered that or his question has changed. And there he is again. So, Jason?

JASON SCHAEFFER: Thank you, Brian. Just for the record, I do agree with David that ... And I don't support the language if we can't come up with implementation guidance. Certainly, if we're talking about the remaining language on the third-party mechanism, at the moment, I would say I'm against it unless we can do better here.

So, I'm optimistic we can. And I thought that was the purpose of the working group and these calls, is to work on language in a good-faith manner. And I think Greg ... I thank Greg for helping that discussion. And I think, hopefully, staff can help memorialize this so we can get actual implementation guidance instead of relegating these good-faith comments to a tough selection, as I believe Paul said. Thank you.

BRIAN BECKHAM: Okay. Thanks, Jason. So, I think ... Let me just ask if there are any last requests to add anything for the staff revision that we'll look at on the future call. I think we've had a pretty robust discussion and the views are very well-understood. And we'll see if we can't reach agreement on implementation guidance.

But let me just ask if there are any items that people feel haven't been raised that are necessary for the staff revisions to take place. And that includes both the original recommendation and implementation guidance and the Subteam Two revisions, namely, the suggestion or question that there ought to be some sort of a third-party challenge mechanism or some way for people to raise concerns about this. Just wanted to make sure that that's okay to include. I have Kathy and then Phil.

KATHY KLEIMAN: Yeah. Brian, I don't think we have the support on the third-party challenge mechanism. So, I just wanted to raise that. I'm not sure we have support for moving that, even, into context. It may be something that some groups wanted but I don't think it's moved to the level of cross-community support for lots of reasons. And we saw at least three comments over the weekend, or by Friday, or sometime. With the Jewish holidays, it's hard to remember. But we saw concerns about that so I'm not sure ... I can't support that going into the comments with any kind of recommendation from the working group. Thanks.

BRIAN BECKHAM:

Sure. Thanks, Kathy. I would just note that with respect to the Subteam Two, the idea of a third-party challenge mechanism ... I think if the concern is about agreeing on that as implementation guidance, then certainly, you raise a fair point. And if there's not agreement, then so be it.

But I'm not sure I would agree that it would be inappropriate to include it in the context because, certainly, it is a concept that's been raised by working group members. And frankly, I think it's a question that kind of hangs over the recommendation itself. So, I don't think it's right to, let's say, exclude it. Especially if we end up taking an approach of, "Some said this. Some said that. Some examples raised were the following," then it feels appropriate that that would be included because, certainly, it's something that's been raised by members of the working group.

And I seem to have raised something worth responding to. I have Phil, Rebecca, I think Kathy again, and then Paul McGrady.

PHILIP CORWIN:

Thank you, Brian. First, speaking with my co-chair hat on, I support your sentiment that we should ... I think staff has heard sufficient guidance here to come back with something on the working group list. I feel fairly confident that the working group can agree on some final implementation guidance of direct relevance to this final recommendation—that we can agree on it and it may well get consensus support when we go to consensus call.

Now, speaking with my personal hat on, I do not believe that the small team proposal to add so-called implementation guidance

recommending that the IRT consider creating a wholly-new third-party challenge mechanism, unrelated to enforcement by ICANN Compliance really is proper implementation guidance. It's not what I would support in this process going forward.

The recommend is for the IRT to draft a new provision of the standard contract for the next round of new TLDs that specifically prohibits certain registry practices that intentionally circumvent the mandatory RPMs, generally and specifically. The sunrise is a contract provision to be enforced by ICANN Compliance. Third parties who believe that a registry operator is violating that new provision, when the new round rolls out, can contact ICANN Compliance, individually or collectively, and urge enforcement action.

But whatever we've been talking about, mostly, is about giving guidance to that IRT. And I think we have to recognize that our guidance will always be general—that the more specific language is going to have to come from the IRT with participation by ICANN Org. In fact, they lead the effort with participation by Contracted Parties and others.

But the Small Team Two recommendation is not guidance for how to draft this new contract provision. It's basically a blank slate to create wholly-new mechanism. And none of us have any idea what that might look like, what elements might need to be shown, but what burden of proof, what the penalties would be.

So, I just don't see that related to this. And so, I support your going forward, Brian, overall, as a co-chair. But as an individual, I would oppose it if staff is going to bring us back something that

includes the Small Team Two language because for the reasons stated, I do not view it as guidance to implement this recommendation but as something, while related in some way, giving a blank slate to the other team for something completely different. Thank you very much.

BRIAN BECKHAM:

Okay. Thanks, Phil. Can I ask? And I think Kathy had a similar question. So, if I could just ask one of you or anyone else to respond to the question of ... I appreciate that some people feel that the small-team recommendation of a third-party challenge mechanism—that they have objections to that for different reasons. But are there concerns about that being reflected at the level of, “Some working group members suggested this,” or, “raised this as an open question,” or something to that effect? I feel that that’s a fair reflection of the conversation.

Again, I appreciate if people ultimately don’t agree with that coming to pass. But certainly, it’s something that’s been raised during our conversations here. So, I don’t know if Phil or Kathy wanted to specifically react to that. I see Rebecca and then Paul McGrady.

PHILIP CORWIN:

Brian, may I briefly respond? I think you were asking a question.

BRIAN BECKHAM:

Please.

PHILIP CORWIN:

Just, again, I support all efforts to perfect, as best as we can, implementation guidance to the IRT to help them—to assist them in their task of drafting a new provision of the standard Registry Agreement for the next round of new TLDs. I don't view the proposal from the small team as having anything to do with guiding the IRT on drafting that provision.

But frankly, I view it as a new recommendation in the sheep's clothing of implementation guidance. It's just too broad. It just gives the IRT complete carte blanche to come up with anything. And it's something that has nothing to do with this new Registry Agreement provision, which I think if we continue to focus on that, we can get something that's agreeable to the group and can get consensus support. I'm concerned that if we throw in the other blank slate provision, that may not happen. Thank you.

BRIAN BECKHAM:

Thanks, Phil. And I'm seeing Paul McGrady's question in the chat. I had a similar question, which is ... Again, I fully appreciate that people may not agree with, if I can put it this way, the substance of that proposal. But certainly, it's a proposal that's been raised. And I think it doesn't ... To me, at least, it doesn't seem inappropriate that it would be mentioned in the context—that the IRT would be aware that this has been raised. Of course, if there's a contractual provision, then there is the natural question of how perceived violations of that are brought to the attention of the appropriate body.

So, I have Rebecca, Paul, Jason, and David. Rebecca?

REBECCA TUSHNET: Thank you. So, actually, perhaps my comment in support of Phil goes to this question which is ... I wouldn't mind mentioning it but it would have to say, the way we have done with every other proposal that did not get consensus support, "The working group did not reach consensus on this recommendation and does not recommend it." That's what we said about open TMCH.

If we're stuffing stuff that didn't get through and kicking it over to the IRT, I have a bunch of things that we didn't do that way, that it would be ... I think it would be only fair to go back and insert similar guidance because this is ... At least, this is not my impression of how we did things previously. And there are a lot of things—a lot of proposals—that didn't reach consensus. And we said that, instead of saying, "Hey. Think about it, IRT." Thank you.

BRIAN BECKHAM: Okay. Thanks, Rebecca. Although, I will just remind that we did agree on the actual sunrise recommendation. I have Paul McGrady, David McAuley and Jason Schaeffer. And we may be kind of winding down here. So, Paul, David, and Jason, please.

PAUL MCGRADY: Thanks. So, yeah. We kind of jumped all over this. At the beginning of the call, I suggested that sunrise recommendation—I'm sorry, that the Small Team Two proposal for implementation language, not a recommendation, as Rebecca seems to think that

it might be. Already had enough back-and-forth in these calls and on the list. Kathy insisted that we talked about it but then led with her not doing that—simply saying that she didn't believe, as a co-chair, I suppose, that it has sufficient support to go forward. Phil now has said that he doesn't think it has sufficient support to go forward as implementation guidance.

So, again, we didn't really have the conversation that Kathy was insisting that we have. But we do have two of the three co-chairs' view on this, in terms of implementation guidance—whether or not it should make it. But that's not the question Brian's asking. The question Brian's asking is since this did get significant discussion in and around how it relates to sunrise recommendation two, should it also be allowed a spot in the thoughts and opinion section—whatever we're calling it—deliberations? Not sure.

But basically, it's no ... Brian's not talking about it being implementation guidance and I think everybody knows that. They keep saying, in response to Brian's actual question, "Well, it shouldn't be implementation guidance," which Brian has already said. So, the extent to which everybody's working hard to not even have it be a footnote in the history of the deliberations of this PDP is quite telling. And so, there we are. Thanks.

BRIAN BECKHAM: Thanks, Paul. Jason Schaeffer, please.

JASON SCHAEFFER: Okay. Hi, Brian. Thank you. I think Paul just seemed to say it. I disagree wholeheartedly. I think we were having a productive

discussion here. And I actually am a little surprised that we can't, as a working group, accept that we are actually making some progress.

But be that as it may, the issue is pretty clear. I don't recall us agreeing on the third-party resolution mechanism at all. We did not have consensus on it. So, to the extent that it is inserted here, it should reflect that—that there was not consensus on it. You were having a reasoned discussion on what implementation guidance should be but that's for question two.

And I remain optimistic that we will get some clear language on implementation of question two. And that's exactly what we did for the past hour and 24 minutes. And hopefully, staff can help memorialize some of this. And perhaps, on the list, we can do it as well. But as far as the third-party guidance, that's a whole different discussion. And, as it was before, it did not get consensus. So, I am clear that I stand against it, as I did then. And if it is inserted here, it should be noted that it did not have consensus. Thank you.

BRIAN BECKHAM:

Okay. Thanks, Jason. And just to react to your comment and, David, your question in the chat ... And I see, David, you have your hand up. And I apologize if I've somehow misstated this. I certainly didn't mean to imply that the Small Team work was agreed or was meant to be implementation—merely that it was a question that was raised. So, I apologize if I have misspoken about that. David McAuley, please.

DAVID MCAULEY: Thank you, Brian. I'll be quick. I did put my thoughts in chat. But I think treating is as just the other thoughts would give it undue weight. And I think it would be okay to mention it in comments. I didn't put this in chat but I should have. It would be okay to mention in comments if it's also mentioned that this did not have widespread support and did have significant opposition. This idea is a recommendation, in my mind. And I think it ought to be treated that way. Thank you.

BRIAN BECKHAM: Thanks, David. And what I had mentioned earlier was that this was a question that was left open. So, certainly didn't men to suggest that it was agreed. And I think it's ... As you've said, David, it's only fair to, if we include this as a question that some working group members have raised, to also reflect that others didn't ultimately agree with the idea of that actually going forward.

I was hoping we might at least get to one of the URS recommendations. But we have four minutes left. I think we've had a good conversation and it is one that will be useful to the staff, to try to help move this along in the background over the next coming days, towards the implementation guidance. And if we can get that across the finish line as implementation guidance, fantastic. If, ultimately, that's not possible and this is merely provided as context—deliberations of the working group—let's say, the legislative history, if you will, that the IRT would look back at, then that's fine as well.

So, at least we've agreed on the addition. It's a small addition but we've on the sunrise final recommendation about intentionally circumventing. And we have a little bit of work left to do on the implementation guidance or the context for the IRT. And we'll see that. I think it will be next Tuesday, if I understood, when the staff has a chance to work on that and get it back to us for our discussion about where we finally land on that.

So, let me see if there are any other final thoughts or comments and then, if I could, turn it over to staff to just remind us of the next upcoming call and if there are any procedural points or agenda items to raise with respect to that. I don't see any last calls. So maybe, with that, will thank everyone for the good discussion and turn over to staff.

ARIEL LIANG:

Thanks, Brian. So, the next call, I think ... Sorry if I missed your question precisely. But for the agenda for next call is to continue on the agenda for today's meeting. That's revisiting—not really revisiting but look at staff's revision to the URS recommendation—the language itself and also some context that reflects the discussion of last Thursday's meeting. And then, also, look at the revised data collection recommendation. That's also incorporating the working group's feedback.

And then, we will go into the individual proposals. If you recall, some of them have a second chance to be reviewed by the working group and look at whether they have any opportunity to become a working group recommendation. So, staff did preliminary work to convert these individual proposals into

recommendation language for the consideration by the working group. So, that's what the working group needs to do for the next meeting on Thursday.

BRIAN BECKHAM:

Perfect. Thanks so much, Ariel. And thanks again, everyone, for the chat. And apologies for the homework, Ariel and staff. But thanks very much for raising your hands to do that. We very much appreciate it. So, thanks again, everyone. And we'll see you on Thursday.

[END OF TRANSCRIPTION]