
ICANN Transcription

Review of all Rights Protection Mechanisms in all gTLDs Working Group

Wednesday, 23 October 2019 at 1700 UTC

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ANDREA GLANDON: Good morning, good afternoon, and good evening. Welcome to the Review of All Rights Protection Mechanisms and All gTLDs PDP Working Group call held on Wednesday, the 23rd of October, 2019, at 17:00 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?

REBECCA TUSHNET: Rebecca Tushnet.

NATHALIE PEREGRINE: Thank you, Rebecca. Hearing no further 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

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microphones on mute when not speaking to avoid any background noise. With this, I will turn it over to Kathy Kleiman. Please begin.

KATHY KLEIMAN:

Thank you so much, and welcome everyone. This is Kathy Kleiman, one of the three co-chairs. We have a lot to do today, but a lot of it involves closing things we've been working on for a long time. So, I'll do a quick review of the agenda and then open up to updates to statement of interest. Then we will launch into the review of our agenda. We will launch into our remaining charter questions with some of the newly revised proposals that have been circulated by staff. Thank you for all that work. And then a brief discussion of the individual URS proposals and whether individual URS proposals should be revisited by the working group and the methodology for doing so. We're hoping to close that discussion today. In fact, we need to.

Then, let me ask, is there anything for any other business as we prepare for Montreal? This is our last meeting before we go to Montreal. So, if you have a hand up, let me know. Okay, I don't see anything for any other business, but if anything comes up, please let me know. Of course, in any other business – and here I'm asking staff – if we could post the days and times of our meetings in Montreal. I think that would be great, because if you're there in person, welcome, and also if you're coming in remotely, please join us. Many people did when we were in Marrakech and hopefully this will be closer to everyone's time zone or many people's time zone for remote participation.

Okay, updates to statements of interest. Anybody have an update? If not, I will share my update, that I have just become a faculty fellow of the American University Internet Governance Lab. So, that is in addition to the work that I'm doing at Washington College of Law and I'll be updating that in my statement of interest shortly.

Okay, let's dive in. Remaining charter questions. So, the first remaining charter question that we have is Q12 and you'll remember that Q12 was the question of are there concerns about operational consideration, such as cost, reliability, global reach, service diversity, and consistency due to the Trademark Clearinghouse database being provided by a single provider? If so, how may they be addressed?

Maxim Alzoba presented a proposal for us last week which was discussed and has now returned by way of the suggested revised proposal text from our wonderful staff and I was wondering if Julie could read it. It's not very long. But I know it came out recently and that there are people in transit. So, Julie, if you could read that for us and then we'll ask Maxim what he thinks and open it to conversation. Thank you.

JULIE HEDLUND:

Thank you very much, Kathy. This is Julie Hedlund from staff. As you see before you in the Zoom room if you are in the Zoom room, this is a suggested revised proposal text for question 12 that Maxim also has accepted and it reads, "It is critical that the Trademark Clearinghouse database remains available for access by registries and registrars in order to provide the mandatory

sunrise and trademark claims services, and in some cases, additional services such as extended claims periods. The working group recommends that the Trademark Clearinghouse database providers be contractually bound to maintain at minimum industry standard levels of redundancy and up-time.

“To further ensure the effective delivery of the sunrise and trademark claims services, the working group also provides the following implementation guidance to the implementation review team that will be formed to advise ICANN Org on implementation of the policy recommendations that are ultimately approved by the GNSO Council and the ICANN Board.”

First bullet, consider the advisability of requiring that more than one provider be appointed and review the work of the Implementation Advisory Group that was formed for the 2012 new gTLD to assist ICANN Org with developing the specifications for and design of the Trademark Clearinghouse.

And that is the end of the revised text.

KATHY KLEIMAN:

Thank you very much, Julie, both for the revised text and reading it. Maxim, I note that you put in the chat that you suggest the revised proposal Q12 text and that you support it. Would you like to make any other comment? If not, I open the floor to discussion. Maxim, go ahead, please.

MAXIM ALZOBA:

Do you hear me?

KATHY KLEIMAN: Yes, I can. Thank you.

MAXIM ALZOBA: One of the reasons why I support this revised text is that it removes unnecessary details, technical details, because [inaudible] implementation and underline here the issue and what will be done [inaudible]. I think it's a good idea to do that. Thanks.

KATHY KLEIMAN: Terrific, thank you. So, this proposal then reflects some of the considerations, some of the concerns, raised last week and now provides a way forward that will work both with our recommendations but also the Implementation Review Team. Does anyone else want to comment on proposed Q12? Then, absent additional discussion, I would like to suggest that this has substantial support, not as a recommendation, per se, but to go forward to the initial report as proposed text with support and interest of the working group. Again, checking the Zoom. Terrific. Thanks, everyone. Thanks, Maxim, and thanks, staff.

Next item on the agenda is then category five access and accessibility. Here, I just wanted to read briefly from the notes of last week that the working group agreed to publish Karanicolas's proposal in the initial report for public comment. And now there is a second proposal that has been circulated and updated and revised by staff, a second proposal for Q15. And the question is does this have sufficient support to go forward, or as phrased in the notes from last week, is it a way for the working group to reach

agreement on how to ensure that there is some kind of specific limited access to the data in the Trademark Clearinghouse database for oversight purposes, including future reviews? So, I'm reading from our notes of last week.

Again, Julie, if I might impose, if you could read this for people who are with us in audio or haven't had a chance to read it until now.

JULIE HEDLUND:

Thank you, Kathy. I'm happy to do so. Here is the text. The working group understands that, on the one hand, trademark owners may register trademarks and enter them into the Trademark Clearinghouse as part of a business confidential strategy, including for new products yet to enter the market. On the other hand, some working group members have noted that it was not clear during the lead-up to the launch of the 2012 new gTLD program that the Trademark Clearinghouse database was intended to be a non-publicly accessible confidential database.

In addition, some working group members expressed concern that potential registrants may benefit from knowing what marks are already in the Trademark Clearinghouse database prior to attempting a registration, especially in view of the likelihood based on discussions the working group has held with the current Trademark Clearinghouse validator, that some marks may consist of generic words which potential registrants may legitimately wish to use as a domain name.

The working group agrees, in principle, that an audit of the Trademark Clearinghouse database can be beneficial. Accordingly, the working group recommends that, in order to inform the next review of the Trademark Clearinghouse, a small group of community volunteers be formed that will have limited, specifically defined, confidential access to Trademark Clearinghouse database for the sole purpose of working with ICANN Org and any appointed third-party examiner on such review. The scope of such confidential access is to be limited to oversight purposes only and must not violate any terms of confidentiality that applied to trademark owners whose marks are already in the Trademark Clearinghouse database at that time. And that is the end of the text. Thank you, Kathy.

KATHY KLEIMAN:

Thank you very much, Julie. I appreciate it and I think we all appreciate the new text being circulated. We had comments in the list, which is also terrific to see the comments [inaudible] from both [Merica] and Marie. So, let me open up the queue for discussion now.

REBECCA TUSHNET:

Can I get in the queue?

CLAUDIO DIGANGI:

And Claudio.

KATHY KLEIMAN: So, Rebecca, then I saw Phil's hand, and Claudio. I'm hoping Marie is also online and may join us in the audio. Then, Jason Schaeffer. Okay, Rebecca, go ahead, please.

REBECCA TUSHNET: Thank you. I have some pretty serious concerns about this. I'm not really sure that this is the proposal the person to whom its attributed. As written, my most serious concern is that it seems to indicate that what [AJ] did and provided to us was a breach of confidentiality because [AJ] actually did list the top ten most searched terms and I urgently want to hear from staff if, based on their drafting, they think that was a breach of confidentiality.

I think we have to proceed from the assumption that auditing is a completely legitimate function and does not actually require additional action or changes to the database. The question of open access is a different one, but as drafted, this actually seems like a major step backward. Thank you.

KATHY KLEIMAN: Thank you, Rebecca. So, auditing is a completely legitimate function is something you're seeking confirmation of, as well as questions to staff. Would it be worth pausing? Is Mary on the line with us?

JULIE HEDLUND: Hello, Kathy. I do not believe that Mary is able to join us. She has a conflict. And I have to say that I, as staff, do not have an answer

to Rebecca's question, unfortunately, but we can certainly seek an answer if it's possible.

KATHY KLEIMAN:

Okay. I'll just note that, to the best of my knowledge, the Analysis Group work was done on recommendation of the GAC as some preliminary work to give us some data before this working group started. So, you can address whether this is changing the ability of GAC to do that in the future.

Let me go down the list. Phil, I believe you're next.

[PHIL CORWIN]:

I hesitate to extend this discussion further. I think it's important to close out these questions today but I must say my perception was that there were strongly held views on both sides about whether or not the marks registered in the clearinghouse should be open to public view or not and that we're going to solicit community input on that. I'm not sure it would move us anywhere but it would give the community opportunity to comment.

But, on this audit, it says we're going to have an audit, but I'm not clear on what the purpose of the audit is. What is it supposed to determine what we'll be looking at? Will its results be report on the aggregate or with specific marks that are recorded be reported to the community? I'm just unclear on ... I don't object to the concept of a confidential audit, an audit assisted by confidential access to the database but I'm not clear what the purpose of the audit is. Thank you.

KATHY KLEIMAN: Thanks, Phil. I think the purpose of the audit ... I don't want to speak for the working group. I look forward to other people answering you. But I think we talked about it last week, that the purpose of the audit would be to look into the data to see what was happening with the mechanism [inaudible] insight into the mechanisms that we've created as part of the working group. In fact, I wonder whether this proposal is really about future working group access to the Trademark Clearinghouse rather than other groups that might be created by ICANN or supported by ICANN, whether this is really ... Second paragraph is really about working group access for purposes of audit whenever that opportunity arises again. But good questions. Okay, Claudio, you're on audio. Go ahead, please.

CLAUDIO DIGANGI: Thank you. I had the same question as Phil and Rebecca. I just wanted to clarify with Julie, was her response that we don't know who the [proponent] of this proposal is? I didn't catch the answer to that question.

JULIE HEDLUND: Kathy, if I may respond.

KATHY KLEIMAN: Go ahead, please, Julie.

JULIE HEDLUND: Thank you very much. So, this was the staff's attempt to capture the gist of the discussion from last week's call with respect to a new proposal relating to question 15, and it was based on the discussion and comments from Rebecca, [inaudible], Marie, [Laurie] – and whoever is speaking, if you could go on mute, please. And Michael Karanicolas.

Staff did refer to the transcript in drafting this but there's always the possibility that we were not able to capture the comments and thoughts of those who were discussing this concept on the call. So, it is not meant to be, however, representative of any one of those people. I know Rebecca is already expressing concerns. But the idea was to send a draft out, at least to get the discussion going. So, that is what it is. Thank you.

CLAUDIO DIGANGI: Alright. Thank you, Julie. That's very helpful. I totally get what you were doing. So, my comments would be ... My first comment would be along the line of Phil's question, but I don't understand how this would work, what the purpose behind this is.

Just to put some context, the vast majority of trademarks are generic words, regular dictionary words. So, an audit would reveal a lot of dictionary words in the clearinghouse. Then, you'd see the registration number and certain other pieces of information.

Presumably, I think what the idea behind this is, is to then dig deeper and to essentially examine ... Conduct a reexamination of the markets already been registered by a national trademark office, which may include the specimen of use which was

submitted to the clearinghouse, which may not be the same specimen of use that was submitted to the national trademark office to register the mark. I don't think there is a requirement there.

So, [inaudible] a very in-depth and complex legal analysis ultimately to assess whether the mark is [inaudible] registered. I think that would be a pretty ... I think it would be a very difficult task to undertake. I think it would be unprecedented. I don't think there's ever been anything like that in ICANN before where, for example, there is a registration abuse PDP. I don't think they ever said, "We want to look at these registrar's domain names and audit this particular registrar and take a look at the registrations." Generally, this type of work is done by the compliance department.

So, what I was going to say was I presume that there is already an auditing mechanism in the contract that [inaudible] has with ICANN. So, if we wanted to maybe put something forward, some type of recommendation along those lines, dealing with the role of compliance, maybe even the way the contracts are structured, I think that's something that is more palpable and that fits into the general paradigm. Otherwise, I would just think that this would be way too complex and really almost impossible to complete. Thank you.

KATHY KLEIMAN:

Terrific. Thanks for walking us through that. Appreciate it. Jason, then Marie. Jason, go ahead, please.

JASON SCHAEFFER: Thank you, Kathy. I guess at this point, there's been a lot of comment. I don't want to belabor this and keep this open, so I'll try to be very brief. I do agree with a bit of what ... Certainly with what Rebecca has stated and issues raised. I feel Claudio is taking it indeed a step further.

I think the issue here is ... First, I thank staff for taking this step and for attempting to do this. At this stage, I think there have been enough points raised that cast out on the viability of doing this at the moment, but again, I think it's certainly a valid concept that was raised in the hopes of reaching compromise in the last call and I think it's something that's worth further consideration. I'm not sure how we practically ... The practical implications of it and how we actually do have this oversight and access, but nonetheless, I think it's important to stress that oversight and access and transparency, at least for some in this group, feel it's a very important principle. We should maintain that.

And as far as Claudio's concerns about the depth of where we're going, I think just that alone indicates that there's probably going to be significant debate on how that would even be implemented.

But, I guess at this stage, I'm of the opinion that at this point we should let Michael's proposal go forward, get the comments, have the public comment on open versus closed TMCH and then we can regroup. But thank you, again, for this attempt.

KATHY KLEIMAN: Okay. So, Jason, before you get off the phone, let me just double check. It's a valid concern but as one of the proponents of this proposal, you're not supporting this version that we see up. Is that correct?

JASON SCHAEFFER: Well, yes. To be clear, Rebecca echoed it. I'm echoing it. Others have echoed it. I think there are valid underlying issues that we need to address. I'm not sure we're going to get ... Certainly, we're not going to get there on this call and I don't want to lose the momentum on the other points and I don't think we're going to have something in time that will be viable.

So, there are a lot of issues on both sides of this fence that I think need to be hashed out before we could even come through with a suggested draft. So, I'm suggesting in the interest of time, and allowing us to move forward, that we do accept the public comment on Michael's proposal, but that the group itself continue the dialogue and figure out if eventually, at some point in the future, whether it's this working group or another that we know where we're tracking.

KATHY KLEIMAN: Okay, thank you very much. Appreciate it. Marie, go ahead, please.

MARIE PATTULLO: Thank you, Kathy. I wasn't going to speak because I sent an email because you very kindly asked me to. I'm not going to repeat

everything I put in the email because it would be confusing, so unless Julie wants to pull it up on screen, you can all read it on the list. It was some potential amendments.

To go back to the beginning, though, thank you so much, Julie, for trying to capture all of this. We really do appreciate that. I agree with Cynthia. Her last comment in the chat, Jason, I completely agree that transparency and access are important principles but so is protecting confidentiality, so is protecting consumers, and so is protecting trademark owners, and that's what the rights protection mechanisms are supposed to protect: the trademark owner's rights.

So, you will know that I and the association that I work for have grave concerns about this. I'm thankful that Phil did confirm that if this does get put to the community, it will be put with an explanation – argumentation, if you like – of those of us that also have grave concerns with this, and it's not just to be published as if this is an agreement from all in the working group, because with that, I would have to disagree. Thank you very much.

KATHY KLEIMAN:

Okay. Thank you, Marie, and thank you for coming online as well as for posting. So, let me double check. Running down the list of people who participated – Jason, I'm assuming that's an old hand, but let me know otherwise.

CLAUDIO DIGANGI:

Kathy, can I make one very, very brief comment?

KATHY KLEIMAN: Very, very brief, Claudio, because I really – actually, let me sum up where we are because I’ve heard serious concerns. I’ve heard [inaudible] for more information proposal. I’ve heard too complex. I’ve heard viable concerns – I’ve heard valid concerns, not a viable proposal. And I’m hearing Marie as well, that there doesn’t seem to be agreement. So, I’m not seeing agreement on this proposal and I was just wondering.

CLAUDIO DIGANGI: Right.

KATHY KLEIMAN: So, Claudio, very, very briefly and then we’ll go to Cynthia.

CLAUDIO DIGANGI: My comment is because of consensus building and to recognize concerns that Jason ... And I’m sorry – I’m in a train station – for the background. My comment was if we could, going forward, look at the issue transparency from the perspective of the registry, which to me means registered during the sunrise period, as a way of potentially getting to the issue of transparency, instead of the Trademark Clearinghouse itself, I think we may be able to make some [inaudible] consensus around [inaudible] of registry level mechanisms or challenge mechanisms or getting more information from the registry.

KATHY KLEIMAN: Thanks, Claudio.

CLAUDIO DIGANGI: No problem.

KATHY KLEIMAN: That's not the proposal in front of us, though.

CLAUDIO DIGANGI: But it's related to it, yes.

KATHY KLEIMAN: That would be going to the comments of other proposals, the registry level.

CLAUDIO DIGANGI: Well, I think it's a path forward. If we don't adopt this, I want to be able to address Jason's concerns and I think that's an alternative way of doing it. Thanks.

KATHY KLEIMAN: That was a new hand from Jason and then I'll call on Cynthia. Jason, go ahead, please.

JASON SCHAEFFER: Thanks, Kathy. I'll be very quick. I had not seen Cynthia's comment and I'm just going to do a very brief comment to Cynthia and to Marie. I thought I was clear that when I spoke last week I

was taking into account the sensitivities raised by the IP community in trying to find a pathway forward. It shouldn't be assumed that I'm taking a position that's counter to your stated positions. I think we're all trying to find a way to manage this in a way that's responsible on both sides and recognizing that, yes, there are IP interests and other business intelligence issues that are at play here.

But, to be clear, there is not a consensus on ... We do have a consensus on the issue. That's understood. And we also do have difference of opinions on the way the TMCH was implemented and how we got here. So, we'll put it to public comment and we'll see where we go but it's obviously been duly noted that there are competing interests that are of importance, so I recognize that and I'm not discounting that. So, hopefully, we'll find a solution that is satisfactory, but this is far from a foregone conclusion on whether the TMCH should have been or is or will be confidential in the future and we'll have to sort through that.

KATHY KLEIMAN:

Jason, before you get off the phone, there is a question in public comment and that is: what are we putting out to public comment – in the chatroom, what are we putting out to public comment? Is the [prose] we have put on the screen?

JASON SCHAEFFER:

My opinion, I thought that we were going to ... Well, again, that's what I think we're discussing right now. I thought we were going to

just put Michael's current proposal out for public comment, but that's—

KATHY KLEIMAN: Okay, so your position on the current proposal in front of us is? Just one word, yes/no.

JASON SCHAEFFER: On the current proposal, no. I appreciate staff's effort. I think there's too many issues to put this forward.

KATHY KLEIMAN: Too many. And there do seem to be a lot of issues. Cynthia, go ahead, please.

CYNTHIA KING: Hi, can you hear me?

KATHY KLEIMAN: Yes, I can.

CYNTHIA KING: Good. I wasn't sure if my mic was working today. I just wanted to say that, while I understand the desire to put these, a lot of questions, out for public comment, because we want to figure out what the broad consensus is regarding some of these issues.

In this particular case, I think that we might be making a mistake. If the underlying issue is that people put the information into the database with the understanding that it would not be searchable to the general public or within broad confines, then I'm not sure that having public comment helps us in any way because that underlying issues will remain. Unless we could come up with some language that was specific about who would have access and how it would be used.

If we could come up with something that was specific, then I think that might be beneficial to put it out to the public for comment. But if we're just putting out something broad that is potentially, won't make a difference what the public thinks, then I don't see the point of that. Thank you.

KATHY KLEIMAN: Thank you. Cynthia, before you leave, to the proposal that's on the screen now, can I ask you the same question I asked Jason. One word, yes or no.

CYNTHIA KING: Yeah. I know you're looking for yes or no. I would like to see it defined a little bit more clearly before I say yes. It would be a no until we define it more clearly, thank you.

KATHY KLEIMAN: Until we define it more clearly, okay. Terrific. Well, as Julie says in the chat, it seems that there's agreement to not put this new proposal out for public comment, perhaps to revisit it. I think that's

where we are and I've been taking notes along the way and I'm not seeing any strong support for this. So, thank you to everyone.

If it comes back again, and it may be something you consider after we get the public comments, the second paragraph of this seems very interesting. The first paragraph seems to have a lot, is background really. But the second paragraph, something about an audit for the next working group may be part of the concept that we maintain, an audit on a confidential basis. But, right now, it looks like we're done, so we move forward on the agenda. Thank you for the discussion, everyone.

Okay, the next issue. Staff, am I right that the next issue is category one, education, question two. Is that where we're going next? Okay. We don't want to revisit all of this. We talked about ...

Okay, so we're now in category one of our questions, which was a special subcategory that we created on educational issues, and on Q2, just recapping where we were last week, the question is should the Trademark Clearinghouse be responsible for educating rights holders, domain name registrants, and potential registrants about the service it provides? If so, how? If the TMCH is not to be responsible, who should be?

Martin Silva Valent put out a proposal which he is here to talk about. There was discussion about it. I think there were calls for revision and rethinking of certain parts but not overall huge objection in general, I think. But that's my recollection of last meeting. Martin, go ahead, please. And Cynthia, I'm thinking that's an old hand, but if it's not, please let me know. Martin, go ahead, please.

MARTIN SILVA VALENT: Thank you very much, Kathy. Yes, we already started late on this so I'm not going to go over it word by word. But in general it seems that – and skipping to the end of the debate [inaudible] so we can continue from there, there was some significant agreement in the sense of education is good, at least we know that for the [trademark house] to work, it makes sense that people are aware of it and know how to operate with it, how to engage with it.

But the main thing I took away, and I'm working on it right now, is first of all, what's the definition of [allocation] in this question? Are we talking about awareness? Are we talking about outreach? What is the trademarking house doing right now?

So, I went to their website and I tried to understand exactly what amount of information they were giving. I know they have some basic level of information in some other languages as well, but once you go to the [inaudible] of questions, it's only English. At least I saw a sort of balance, if you want, in the information that was [purely more towards] trademark owners and not so much to registrants.

But this is an ongoing thing. And I do ask for help of staff or the community [inaudible], okay, this is what is an issue. When we mean that we want education, this is exactly what we are talking about. We are not having this and we should be having it.

Otherwise, besides looking into what the trademarking house education means and what they are doing right now in those

terms, there were two other main issues. One of them is the scope of [inaudible] contract, whether we could enforce some education clause on that, despite there already is doing some sort of communication. And this is not irrelevant. They are managing the website and they're managing the other [inaudible] communications and [inaudible] that they have.

But this is very relevant because it's not that they're only managing a database, they're also managing communication of their institution. So, this is a very strong argument to say, "Okay, I don't know exactly. We can discuss what education means." But they are doing communication which is meant to educate and to create awareness and to eventually engage stakeholders, mainly in this case, trademark owners. But we know there are more of that. So, they're already doing it. Where we are talking right here is not something out of the blue. We are just saying we want to define the practice that they already have into a maybe more full definition, so all the community can be served not only maybe the intuitive first one, which is trademark holders.

In that question is what is the scope of that contract? It's interesting that the [inaudible] right now, a one-year period contract, if I understood correctly, and this is of the first five years contract is being renewed each year. In that sense, I am not so much worried, then, because even if we don't have right now the specific scope in the contract and Deloitte is just doing a goodwill effort in communication, if it's a one-year renewal period, we can just say that in the next renewal period we will ask Deloitte to educate. Therefore, if the scope right now is not there, it will eventually be there, if you want to. Yes, go ahead.

KATHY KLEIMAN: Can I ask you two quick questions. So, are you looking for ... The first question. I'll ask both. Were you looking to staff for a follow-up proposal? Because we were hoping to close this today. Also, you're commenting that Deloitte is already managing a lot of ... Has a website on this and is managing communications. Are you suggesting Deloitte slightly expand what it's doing for education purposes?

MARTIN SILVA VALENT: Mainly, yes. By their own actions, they are doing communication, and what we are saying is we think communications are important, and therefore [inaudible] improve that by addressing all stakeholders, just like [inaudible] here. I didn't write the specific proposal yet because I was still gathering this information and also because it was supposed to be framed as a recommendation, and in that sense, I prefer staff draft the text because whatever I write, they will have to rewrite it anyway.

KATHY KLEIMAN: Okay. Thank you, Martin, and thank you for presenting a proposal that raises this issue. Let me open it up to discussion as well as asking Julie whether staff might be able to, as with the two other proposals we reviewed today, summarize the discussion and provide a short proposal summarizing it, which I guess we would have to review in Montreal or just after Montreal.

JULIE HEDLUND: Hi, Kathy. I have my hand up.

KATHY KLEIMAN: Go ahead, please.

JULIE HEDLUND: Thank you. Apologies. We had not actually captured the action item to staff to revise Martin's proposal last week. We're certainly happy to help with that. What we might suggest is that because we really have – well, we're closing discussion on all of these proposals and coming to agreement that they should be included in some form or another in the initial report, and then that text, indeed those proposals and recommendations as a next step will go to the working group to review. We might then take Martin's proposal and turn it into a recommendation format that he and the working group can review as far as its suitability for inclusion in the initial report for comment.

KATHY KLEIMAN: That sounds like a good suggestion to me. Does anyone want to comment on that? As always, appreciating staff's work on this. So, Julie, I think you just closed out the item. Thank you very much.

MARTIN SILVA VALENT: Can I answer a question on the chat?

KATHY KLEIMAN: Sure. Thank you. Sorry. The chatroom is sometimes pretty small for me. Sorry.

MARTIN SIVLA VALENT: Cynthia asked, "Hello, Martin. I think this may be lost. Are we talking about [inaudible] info or [full] info? Where will the education cash come from?" As I understand this, this would be under Deloitte's obligation to do communication about the [inaudible] as they're doing it now. If I found out that they are receiving a specific budget from ICANN to do marketing or outreach, then good. That means that budget is applied here. But it definitely comes from the budget of the trademarking house, whether it is coming out from Deloitte's pocket or ICANN's pocket, I'm not out to get Deloitte at all. I just want the communication strategy we have [in the institutions] to be as useful as possible.

KATHY KLEIMAN: Terrific. Thank you, Martin. Any more questions as we close out Q2 of category one? Great. Thank you very much. I'm just looking again.

Okay. So, next thing on our agenda is actually the go-to questions we've seen many times but I'm not sure we've talked about [inaudible]. We are going now to our last category of the table that we've been working our way through. This table, as you might remember, is kind of deferred trademark charter questions. It's called the status of working group questions on agreed Trademark Clearinghouse charter questions.

And this very last category is category two, verification and updating of the TMCH database. We have no proposals on Q4, Q4, and Q6. So, what I'm going to do is – and hopefully staff will track me on the screen, thanks for doing that – is to read through the question, a little bit of staff notes that we have, and then see if Without proposals, we're assuming that these are questions that have either been asked or answered or not deemed that significant, because we did these two years ago, so in light of where we've been and what we've covered, can we close out these questions?

So, we'll start with Q4. Should the verification criteria used by the TMCH to determine if a submitted mark meets the eligibility or other requirements of the TMCH be clarified or amended. If so, how?

And column three says the question for the working group is based on Deloitte's information and materials to date. Is there really a need to develop additional policy recommendations on this topic? Are there remaining concerns that can be addressed via implementation?

And we do have a yellow update here. If staff could page down, the update is from the sunrise subteam which deliberated on a related question, namely is the TMCH provider ... Staff, could you page down a little bit so everyone can see what I'm reading? Thank you.

So, the sunrise subteam deliberated on a related question. Is the TMCH provider requiring appropriate forms of "use"? If not, how can this be corrected? And develop the following question that

was endorsed by the RPM PDP Working Group. The subteam generally agreed that the TMCH provider is requiring appropriate forms of proof of use, according to the enumerated rules, specifically 2.2.3 of the TMCH guidelines.

So, would anyone like to speak to this question? Has the sunrise subteam addressed it sufficiently? Are there any other comments? Again, no being no proposal, which seems to indicate that there is no burning question on this. Martin, is that an old hand? Thank you.

Okay. What I'm going to do is say going once, going twice, gone. Of course, we will put this out to the full working group which has already seen this table a number of times. So, verification criteria, we have nothing to change or add on that.

Okay, question five. Should there be an additional or different recourse mechanism to challenge rejected submissions for [inaudible] in the TMCH? The middle column says the question for the working group. Based on Deloitte's information and materials to date, is there a need to develop additional policy recommendations on this topic? Are there remaining concerns that can be addressed via implementation? So, challenging rejected submissions.

We don't have any update from the subteams on this, the sunrise and trademark claims subteams, and we don't have a proposal, so the default here is that this is not a question we believe needs to be addressed at this time or put out for public comment in our initial report. Okay, going once, going twice.

Let's move on to Q6, then. How quickly can and should a cancelled trademark be removed from the TMCH database? This says TMCH users contractually obligated to notify TMCH of cancellations; though no penalties are imposed for failure to notify. There is no evidence to date to indicate that this has been a problem. Note that reverification is done on an annual basis in any event and that sunrise and most claims periods run for a very limited period.

So, another question that we posed two years ago, question for the working group, based on Deloitte's information and materials to date, is there a need to develop additional policy recommendations on this topic? Are there remaining concerns that can be addressed via implementation?

So, returning to Q6 itself, how quickly can and should a cancelled trademark be removed from the TMCH database? My sense is it's renewed ... If I remember correctly – and someone can please correct me if I'm wrong – that it's removed, that the update is on an annual basis. Is that right? And that if it's been cancelled, we at least remove that. Would anyone like to speak to this matter? Again, no proposal is received on this and nothing from the subteams on this.

Okay, we will let the full working group know that this group, in our meeting today, did not choose to move forward with any new proposals on these, which were of course due a while ago.

CLAUDIO DIGANGI: I just wanted to mention I had to drop off the call about 40 minutes ago, so I missed the fun you guys had today, but I was able to turn back on. I kind of just caught the tail end of what you were saying. I just wanted to add that one of the SDRP policy provisions is that if the trademark is no longer in effect – let’s say the trademark is cancelled – that it is [inaudible] challenge mechanism that [inaudible]. But overall that was it. Not a big contribution there. Sorry.

KATHY KLEIMAN: Actually, I think it is. So, if staff could note that, what Claudio just said – I don’t know if column four is appropriate but somewhere in response to question six – I think that information is relevant. It is facts that we found. So, thank you, Claudio. It is facts that were sent to the [inaudible]. The sunrise subteam [inaudible] was doing the SDRP work. Staff, is that okay to add, so that people referencing this in the future will see that?

CLAUDIO DIGANGI: Kathy, actually, I might have misstated. It’s either in the SDRP or in the Trademark Clearinghouse. One of the ways that you could say to the TMCH, “This mark has been cancelled,” it might be there instead, so I might have to make that correction to my other comment. I think it is a way you could go to the Clearinghouse and tell them that this mark is no longer in full effect. Just not quite sure.

KATHY KLEIMAN: Okay. So, maybe ... I don't have the SDRP open in front of me. Thank you for your comment. Appreciate it. Julie, go ahead, please.

JULIE HEDLUND: Thank you, Kathy. I was having some trouble understanding Claudio. We'll look back at the transcript and recording to try to capture what he said with respect to six, and I gather he slightly revised it now as well. So, we'll try to capture these comments as part of the discussion on question six.

KATHY KLEIMAN: Perfect. Thank you very much. Does anyone else have any comments as we close four, five, and six, category two, verification and updating of TMCH database? The last category of the table. We've been working our way through for a number of weeks now. Great. And congratulations, we are now closed, at least in terms of discussion in working group meetings. Excellent.

Okay, the next item on our agenda is returning back to something we talked about last week. Let me get my notes together. Next item on our agenda is whether individual URS proposals should be revisited by the working group and the methodology for doing so.

What Julie has put up is the draft URS individual proposal survey. And I just wanted to summarize briefly what happened on our last call. And here, I'm literally just reading off the notes that staff circulated after the last call, which was on this item as well. Survey does not designate which proposals go into the initial report. That

will be decided via working group discussion. Also, working group members should consider whether or not names and affiliations – but I’m going to modify that to and/or affiliations – should be included, although the survey is not a poll. Also, working group members will decide what to do with the data.

I’ll repeat that. Working group members will decide what to do with the data. And that the co-chairs suggest allowing working group members to take the survey as a way to inform, but not direct, working group discussions and that working group members are requested to continue the discussion on the email list. And also we put it, the co-chairs – leadership team put it in today’s agenda.

So, let’s open back up this discussion of individual URS proposals of which we have many. They number over 30. And the question is can we whittle them down and should we be doing that via a survey that will at least provide – I think Phil Corwin used the term pulse, a sense of the pulse of the room, but that’s how I’ve been talking about it, so that we can put out to the public in the initial report fewer individual proposals but ones that would tend to have more support, even cross-community support, if possible.

So, let me open this up to discussion. Also, the pending question of whether names or affiliations should be added to the survey, so that at least we have a sense of whether someone is coming from a certain ... And then what they [inaudible], stakeholder group or constituency or academia or outside of ICANN, whatever. So, good. So far, we have Jason and Rebecca and other hands may be raised as well. Oh, and Phil corrected me. Not the pulse but the temperature of the room was the phrase used. Very good.

CLAUDIO DIGANGI: And Claudio, too.

KATHY KLEIMAN: Okay. Jason, Rebecca, Cynthia, and Claudio. Jason, go ahead please.

JASON SCHAEFFER: Thank you, Kathy. I had one quick point. I'm not clear on how much time we have to respond to this survey. I know Phil wants to get this out and have a temperature of the room taken, but how much time do we as a group have to really respond and address this? I can take that in a second.

KATHY KLEIMAN: Jason, pause for a second.

JASON SCHAEFFER: I can pause. Yeah, sure. Go ahead.

KATHY KLEIMAN: Okay, because it's a great question. To Brian and Phil and Julia, I think we're talking about a week, that this will close next week. Probably next Wednesday. Julie, is that accurate?

JULIE HEDLUND: Yeah. Hi, Kathy. That could be a week or perhaps a little longer, since staff is not anticipating doing analysis, per se, on the data but the data would simply be extracted and provided to the working group in its raw form, in which case we could probably gather the data and submit it to the working group pretty quickly.

KATHY KLEIMAN: [inaudible]. Thank you. Jason, back to you. Thanks for taking the interruption.

JASON SCHAEFFER: Okay. Thank you. That helps inform the discussion. I'm not averse to obviously getting a survey out there. I do have some questions as to what standard we're using. If there's one objection and everybody else votes for it, what's the threshold that we're really talking about here to take the temperature, and I think you answered a little bit before Kathy. You were saying that it's just to help inform discussion. It's not going to be determinative.

I guess I want to make a point is that Zack – actually, Zack and I took about a half-an-hour offline and ran through the proposals individually, and in some cases, we were surprised and other cases, we're not. But we were able to – again, that's just two of us but we were able to knock out a bunch of these and even some that might have been ... Even one or two that Zack originally proposed.

So, without getting into the details, that was a half-hour exercise. Obviously our group would be much more difficult to do that, but I encourage everyone to go through the list, refresh your

recollection of some of these. These are very old. We went through this a long time ago but I think we may ... Even the proponents of certain proposals might come back and say, “You know what, this is not really essential to move forward,” but I welcome everybody doing that exercise. I would hope we could have done it as a working group but it doesn’t seem like we have the bandwidth to do that and get through this. But I think we can dispose of a lot of these proposals in short order and whittle this down but I’m just not sure how we get there.

KATHY KLEIMAN: Jason, I take that as support for the survey?

JASON SCHAEFFER: Loose support for the survey. I have some questions on the methodology and what we’re doing. Yes, I think we should identify who’s submitting an answer or a response. I think there are some details about this but it sounds like the survey is going forward, so let’s try and tighten it up a bit and see what ...

It sounds like ... You clarified in your introduction that the survey is not dispositive. It’s just a useful tool that we will use as guidance. Is that correct?

KATHY KLEIMAN: That is my sense. Would Phil or Brian like to comment on that?

PHIL CORWIN: Kathy, are you inviting me to jump the line? I was going to raise my hand but I don't want to jump ahead of people here.

KATHY KLEIMAN: I'll add you to the queue, but my sense is, yes, that this is – yes or no. Yes, we're just using this for the temperature of the room, a sense of where people are on these surveys after a year.

PHIL CORWIN: Yeah. Let me put my hand up and I'll chime in after others have spoken. I think that's best. Thank you.

KATHY KLEIMAN: Okay. Jason, thanks for posing the questions. It looks like other people share your questions in the chat. Can we go on? Should we go on to the next person.

PHIL CORWIN: Yes, thank you.

KATHY KLEIMAN: Thank you much. Rebecca, go ahead, please.

REBECCA TUSHNET: Thank you. First of all, I'm not sure how you can take the temperature in the room without some identification of who's sitting in the room and where, because if the point is in particular to find things that might at least potentially have cross-

constituency support, you've got to know who's answering the survey to do that, at least to the extent of identifying their constituencies. Otherwise, this is just a way of taking stuff off that is not popular with a single group.

Maybe meeting doesn't really do anything, but the reason that I am dubious about this is because it seems like we should talk about these things if we really want to review them, and maybe that means that the [inaudible] for some of them is pretty fast because we quickly realized that there's little chance of agreement. But especially if the survey is not supposed to be dispositive. I guess it seems like it's just shifting a lot of the work to non-discussing [inaudible] which seems to me antithetical to what we might be trying to do here. And maybe we can't do it. Maybe that's the right answer. But it seems like a very bad sign to me. Thank you.

KATHY KLEIMAN:

Rebecca, thank you for your comment, to know that the co-chairs and leadership team had robust discussion on this as well. But the thought was that maybe having people sit down, do a survey, reread these proposals in their own time, and then as a way of bring it back, of preparing for bringing this back to the working group. I think that's the underlying rationale. You're raising concerns, as you have every right to do.

It sounds like if it goes forward, you strongly recommend affiliations of some sort. You mentioned constituencies. Is that right?

REBECCA TUSHNET: Yes, and actually, I'm concerned by Ariel's response in the chat, which just got posted, that actually, you won't be able to do a breakdown. So, in fact, if there is [block] voting, apparently we won't be able to tell that. That seems like a problem. Thank you.

KATHY KLEIMAN: Ariel, it was my understanding that we would ... Let's pause and ask Ariel. It was my understanding that we could have responses back of [affiliations] per question. Would you like to address that? Go ahead, please.

ARIEL LIANG: [inaudible] with a question. In the survey design, we can certainly include a question for people to indicate their affiliation, and then in the individual responses, of course we will see how they respond to each of the questions. But because of the lack of time, if we close the survey close to ICANN 66 or during ICANN 66, [inaudible] don't have time to do an analysis how each survey is responded by the [inaudible] affiliation.

I mean, we have the raw data but it's very time consuming to do analysis but we can provide a broad picture view who are the people that took the survey out. We can provide that understanding [but not] each question because it's time consuming to do that.

KATHY KLEIMAN: Ariel, Rebecca asked can you edit the question so that people can put in affiliation in for each question? Because a broad picture view will disclose block voting. Ariel, that question is for you. Go ahead, please.

JULIE HEDLUND: Kathy, if I might just step in. I think that still gets you to the same problem and the problem is time. We have very little time before ICANN 66. Even if we put in that a person can answer their affiliation for each question, there would not be time to provide that detailed analysis in time for ICANN 66.

KATHY KLEIMAN: Okay. Thank you, Julie. Could you stay on there? There's several recommendations in the chat about putting names on the survey. Why does it have to be anonymous? If names were on the survey, could we see how people responded for each question? Which seems to be the underlying concern here. Julie, you're welcome to—

ARIEL LIANG: This is Ariel.

KATHY KLEIMAN: Go ahead, please.

ARIEL LIANG: Kathy, just clarify the question. Are you asking whether we can keep the survey still anonymous, not showing the names but show their affiliation only?

KATHY KLEIMAN: No. Now the question in the chat is can we show their names if there's agreement.

ARIEL LIANG: Oh, yeah. That's certainly doable. Yes, we can, but that's based on the working group's agreement on that.

KATHY KLEIMAN: So, you can show names as well as which proposals that individual supported.

ARIEL LIANG: This is doable, yes.

KATHY KLEIMAN: Oh, okay. Great. So, information for the working group. Apologies for taking us off. We have Cynthia, Claudio, and Phil and whoever else wants to join. Cynthia, go ahead, please.

CYNTHIA KING: Hi, three quick things. Number one, I have no problem putting my name anyplace on there. People can see our chats every week, so I don't think it's a big deal. Understanding who you're

representing, I think that Marie made a good point that your affiliation, are you here with a group of people, a BC, an IPC group or whatever you hear representing a business? Do some of these answers have personal repercussions? I'm not sure how we sift through all of that. I understand the desire to say that this is how the groups are feeling but I don't see that that is going to be very helpful. Even people within the IPC have very different opinions of how things work out for them or their clients, so I'm not sure how helpful that would be.

The other thing is that I see that the questions offer three specific responses – yes, no, whatever – but I think that there were a couple of questions, if I remember correctly, where it's not that I thought that the proposal wasn't valid. I thought it violated a norm or a rule and shouldn't be there in the first place.

So, I think there could be a case that while ... I'm not voting against the proposal; I'm saying I don't think it's feasible or legal. So, I'm not sure if there's a way to capture that information where it's not that ... It could be a valid concern. It's just not doable.

KATHY KLEIMAN:

Cynthia, let me interrupt. I know you have a third point. If there was some – and I don't know if staff can do it under the time constraints. If there was some kind of other field where you could write in a different response – and maybe staff can show us what Cynthia is raising by kind of artificially advancing us into the survey. Would that solve that, though, a kind of text box [inaudible] response?

CYNTHIA KING: It would solve it. However, I think that you would end up with a whole lot of information that somebody would then have to read for every question. I'm not sure if there's a way to simplify it, to add a box that just says it's not doable or feasible or something specific or whether you want to put a comment box – but a comment box, somebody has to read the comments. I'm sorry.

KATHY KLEIMAN: Comments can be – and staff, of course, [inaudible] the queue. Comments can be short. We can have a limited number of characters and then provide those to the working group as well, not necessarily having anyone else sift through them. So, interesting. Thank you. Cynthia, I think you have another, a third, point?

CYNTHIA KING: The last point had to do with what Rebecca was saying about taking the temperature of the room and not having a discussion on each issue, and I just have to say that, personally, as I sit through these meetings and I listen to everyone's points, I have to say there are valid points on both sides. There are some things that I may not initially agree with that I have to think through. I think the idea of taking the survey with no noise in the background and just being able to think through what's on the paper is very helpful, actually, and then we can discuss it afterward. But I think it's not possible to make everything a conversation with 60 voices and I appreciate the survey giving me the opportunity to sit down and

just be with my own thoughts for a minute, to put the answers in.
Thank you.

KATHY KLEIMAN: Thank you so much, Cynthia. Appreciate those thoughts. Claudio, I'm going to ask you to be brief since we want ... I'm going to ask you to be brief, please. Go ahead.

CLAUDIO DIGANGI: Sure. So, the comments [inaudible] of this being an inclusive process and I think that's the concern that Rebecca and Heather might feel with the survey. [My thought], though, is that [inaudible] initial report, we can just be transparent and say we received these proposals, include them perhaps in an annex or separate priority document and just explain to the community how we work through things. So, we took a survey to gage the temperature of what [inaudible] proposals and that's where we ended up at the publication of the initial report, and to the extent we want to share some of the results of the survey or not I think is a separate question, but I think there might be middle ground where we could address the concerns that some folks seem to be having.

Then, my final point was just that when we were going through, doing the deep dive on URS, I put forward a proposal during working group discussions where support was expressed for it and I remember George Kirikos supported it and we were kind of joking saying, "Ah, we're actually on the same page about something." And that proposal is not listed. I went through the survey. It's not included in that.

So, I think to help what I could do is go through the transcript and send that over to staff, just to make sure that proposals that came out of the working group discussion, those are also included in the [inaudible]. Thank you.

KATHY KLEIMAN: Well, the proposals that came out of the working group discussions are not here. This is just a survey of individual proposals. [inaudible] discussions – I apologize, I should have clarified – are already on their way into the [inaudible] with the recommendation [inaudible] out of the various subteams. Those are being considered differently. This is just the 30-odd URS individual proposals. Are we missing [inaudible]?

CLAUDIO DIGANGI: There was not a subteam on URS, correct?

KATHY KLEIMAN: It looks like Julie ... Oh, there were three subteams on the URS and it looks like Julie can address your point. Julie, do you want to jump the queue just for addressing Claudio's point? Are we missing a proposal, an individual URS proposal, here? Then, I'll keep you in the queue for some of the other questions, if that's okay.

JULIE HEDLUND: Thank you, Kathy. Just very briefly. There were captured URS subteam proposals and those were also reviewed by the full

working group and also individual proposals. What we're discussing here for the survey are only the individual proposals. There were specific rules for how those had to be submitted. They needed to be submitted in a form and then they were captured as they were submitted and they were discussed.

Even if you had something that you discussed in a general discussion in deliberations, if it was not submitted as a proposal and captured as such, then it would not be part of [inaudible].

CLAUDIO DIGANGI:

Okay. Then, I'll send it over to you, Julie, so we can get it included in this list because it was part of the plenary [general] discussions that we were having and [inaudible] being in a subteam for the URS and there was agreement on what [inaudible] forward, so I don't think that should be discounted for procedural reasons. So, I'll go through the transcript to show you [inaudible].

JULIE HEDLUND:

Claudio, I'm sorry, but the discussion of individual proposals, the submission had a hard deadline and that was a long time ago. Those were already discussed by the [inaudible], so there is no opportunity to submit new proposals. However, if you have something you'd like to propose and speak to, you certainly can submit it as part of the public comment process but there is no way to include it in the initial report at this point.

CLAUDIO DIGANGI: Just to clarify, it's not an individual proposal, Julie. It wasn't something that I put forward as an individual proposal. It was something that came out of our working group meetings and there is agreement on it, so why that would not be included doesn't seem to make any sense.

KATHY KLEIMAN: Right. So, it doesn't go into the survey that we're talking about, in which case [inaudible] the individual report. Thank you. Great. Let me summarize where I think we're heading which is that a name would be ... There seems to be support for names that could be shown with every question, and also a comment box or a text box where even if we can't limit the number of characters, we can recommend a limit, perhaps, to the number of characters, so that we could encourage short responses. Phil. I believe it's Phil and then Julie Hedlund. Phil, go ahead, please.

PHIL CORWIN: Yeah. Hi. Just briefly to a couple of points. I'm willing to, whichever. I think the most important thing is to get a survey out after this call today, give everyone at least a week, a little longer depending on what time staff needs to give us a high-level report on initial survey results at our last meeting in Montreal on Sunday afternoon. So, we have at least seven days, maybe eight, nine days to do that. There may be an automated process for aggregating those results.

Names. I haven't decided personally whether I'm going to submit a survey in a personal capacity. If names are collected, I would

prefer that we just collect affiliations because I think as soon as you add names it looks like a poll and we've been very clear as co-chairs that we do not intend this to be a determinative poll but simply an information gathering device.

But if the group wants names and is comfortable, so be it. If there's names, I won't be submitting one, because as soon as there's a name, then it's not just my proposal, but it's Phil Corwin from Verisign and what if David McAuley and I are giving different answers on different proposals and we need to get that cleared from above and there's no way to do that in a week. That's my issue. But I'm going to go through the survey anyway just to refamiliarize myself with all the proposals.

So, as far as how we should treat the information we gather from the survey, that's up to the working group to decide after we get it. Personally, the way I would approach it at this point in time is knowing that, in the end, we want to reduce the burden on the community and get more focused comments, hopefully on a smaller number of proposals that have some chance - not high probability probably but some chance - of gaining consensus and being included in the final report.

If a proposal ... Obviously, if the working group members mostly support it and there's little or no opposition, it's good to go. I think, on the other hand, if working group members or a large number are split on it, it's probably an important question that we should ask the community and maybe they can help us figure a way out. If there's tons of opposition or little or no support within the working group, well, it certainly wouldn't have met our wide support standard that we've used elsewhere. And if it gets almost

no support or opposition, it's probably not very important and not worth asking the community.

But that's my personal view of how I would use the results. I think the affiliations will be somewhat informative and interesting. But in the end, we're going to have these results and then we're going to look at each proposal and say, "Based on the feedback, how do we want to treat this proposal?" And then it's open to a wide-ranging discussion within the working group and anybody speaking for or against a proposal is going to be very transparently associated with their views, nothing anonymous. And I'll be quiet there, but the most important thing is for the working group to refamiliarize itself with the 31 proposals, decide collectively which ones we want the community to comment on and however folks want to use the information, I support the will of the working group. Thank you.

KATHY KLEIMAN:

Phil, before you get off, very, very briefly, can you answer the affiliations question. What would you recommend as an affiliation to be listed, stakeholder group or constituency? Then, the other question was, since it's a little bit of a change [inaudible], can you tell us a little bit about how it is that [inaudible] talking about these proposals in Montreal, and specifically at our meeting on Sunday?

PHIL CORWIN:

Yeah. And you're a little fuzzy, Kathy. On affiliation, subject to staff input – they have more expertise – I would have a way to fill out on the survey to indicate which ICANN stakeholder group,

constituency – other groups. You can indicate registry or registrar or BC or IPC, non-commercial, NCSG or if you're in ALAC, you can indicate that. And if you're not on any of them but you're a working group member, you check other and fill in what you think is a good designation for yourself. Could it be academic, non-affiliated academic, registrant? Whatever you want to put.

KATHY KLEIMAN: Thank you, Phil. Staff is commenting in chat that we can do names for each question without affiliations.

PHIL CORWIN: What's that?

KATHY KLEIMAN: I understand my connection is now weak. Sorry about that. Staff is commenting in chat that we can do names for each question but not affiliations, so that's something to keep in mind. But thank you.

PHIL CORWIN: And last question. You had asked about Montreal. And Kathy, as you know, the co-chairs are going to have a planning call with staff and liaisons this Friday. My present view on how to use a session in Montreal for initial reporting [inaudible], which I think should be Sunday afternoon to give staff the most time to prepare for that, is simply to inform the group at a very high level we had this many members participating in the working group but these are questions that got the most support. These are the ones that got

the most opposition. But it would just be a high-level review and not determine anything on any of the proposals in Montreal. Leave that for afterwards. That would be my view.

KATHY KLEIMAN: Thank you, Phil. Now I note that staff is saying that it's also [inaudible] question. So, the temperature of the room, it appears to [inaudible]. Thank you, Phil. Let me go on to Julie and then to Michael Karanicolas. Julie, go ahead, please. Julie, if you're speaking, we can't hear you.

JULIE HEDLUND: Thank you, Kathy. Actually, I prefer if Michael goes first. And I see Cynthia's hand is up. I assume that's an old hand. I'd like to speak at the end just to see if – I can make sure we've answered every question that's been raised.

KATHY KLEIMAN: Well, I think you're asking questions that people want to comment on. I think it might be useful now. I've been looking forward to your comment for a little while.

JULIE HEDLUND: Okay. So, to try to be as brief as possible, the intent all along with the survey, as the staff's understanding with conversations with the co-chairs, is that it would be a simple survey to take the temperature, not a complicated survey to gather data and

organize it and analyze it and look for trends or grouping of affiliations and so on. That's why the survey is arranged as it is.

If we do need to add names, if the working group agrees, we can add a question at the beginning where people can put in their name. If we need to add affiliations, we can do the same. But then we cannot correlate the name to each answer or the affiliation to each answer. And if we give working group members a week or a little over – let's say to next Friday – there would not be time to do any kind of significant analysis in any case. Essentially, all staff would have time to do is and all we were anticipating doing was to do a data dump, essentially. So, that would be just numbers, not analysis, but numbers, data just dropped out of the survey.

KATHY KLEIMAN:

Julie, let me just double check. For proposal #22, whatever it is, how many say yes, how many say no and perhaps how many commented on it.

JULIE HEDLUND:

Right. And we can do this. We can do a list of names of the survey takers. If we collect names, we can do a graphic showing the survey taker's affiliations, but we can't do that for each individual survey question, not as it's currently designed. And if we were to get the survey out today, there's no way to do what would be a major redesign. But it was our understanding that was never really the intent of the survey which is why we designed it as such in the beginning. Also, that kind of goes against the concept of using it

as just taking the temperature in the room and not using it as some kind of filter or poll or tool for in-depth analysis.

KATHY KLEIMAN:

Thank you, Julie. It's good to know what we can do and what we can't and what are the technical constraints or the software constraints and what are the timing constraints. We have nine minutes and we want to spend at least a minute talking about our meetings and hopefully staff posting the times and dates of our meetings in Montreal in the chat or on the screen. Michael and then Jason. Go ahead, please, Michael.

MICHAEL KARANICOLAS:

I'm on a train and the reception is cutting in and out, so I apologize if it drops out. I have to admit I'm quite confused as to how to taking people's names off somehow makes this not a poll. I don't have statistical background but I see polls on the news all the time and they never seem to have people's names attached to them. If, as folks have mentioned, we're doing this because the group isn't supposed to be doing a poll, why are we doing this at all? I think the name issue is a very silly [inaudible] to claim that names make a difference, and fundamentally, if we're not supposed to be doing polls, we shouldn't do a poll.

In terms of attaching names to responses, if we are going forward with this, I definitely think that constituencies and names should be attached to specific responses. I also think that it's very important to agree at the outset what we're doing with this information and what that means. [inaudible] everybody throws out

ideas about what they think this information means or doesn't mean. That means we need to get consensus in the working group as to what happens with this data and what it means, because otherwise, I think we all know what's going to happen. People who like the results will argue that it's the all-singing, all-dancing determinative equation for what we're doing as a working group. And people who don't like them will say the opposite.

So, I think that it's important to be clear at the outset before we start this, what does this mean and what are we doing with it? Thanks.

KATHY KLEIMAN:

Okay, Michael. Thank you for participating from a train. For what it's worth, we have now been told by staff that names and affiliations – and/or affiliations – cannot be listed per question and the survey was designed without either one.

To Cynthia's question, why must names be attributed to answers ... Jason, go ahead. Maybe you can answer some of the questions in the chat and kind of wrap us up as we go into 224. Jason, go ahead.

JASON SCHAEFFER:

Thank you, Kathy. I'm not sure I can answer everyone's questions as you've requested. I just do recall that we had an effective survey in the past in this group for the practitioner's survey on the URS. I guess that was back in 2018. I think we stated earlier I agree with Michael. I think we answered the question earlier. Kathy stated that as long as we're clear on the intent and purpose

of this survey and that we have agreed as a working group that this is not going to be determinative, that should guard against any findings that someone tries to present of this is determinative. It's not. We stated that. I hope we're clear on that. But let's be clear in case there is any ambiguity there.

I think the exercise is important. As I said earlier, I took a half-an-hour on my own, went through each question. We knocked out a bunch. It was a fairly painless exercise. This will force, I hope, people to go back and reread everything. Over a year has passed. So, it behooves us to do this as a working group.

As far as having names, I am all for identifying people. I'm not necessarily convinced we need to identify your affiliation, as people have multiple affiliations, whether it's registry, registrar, registrant, IPs and so on. So, at least if we can have the name, I know there's ... Obviously, we can do it. I think we're in agreement that this moving forward. Let's just be very clear on what we're using it for and let's move on.

KATHY KLEIMAN:

Thank you, Jason. Okay. So, what we're using it for is a temperature of the room, not anything determinative. Please quote that in our meeting in Montreal and all other meetings in which the survey results come up.

The names are being discussed. First, as Julie points out, your name is being collected for initial purpose in the survey to show that you are a member. Staff will check and will throw out anyone who responds to the survey who is an observer, for example.

There are observers who will see this [inaudible] put in. You have to be a full working group member. But the names were not going to be correlated to the answers. There seems to be an interest from a number of working group members, from what I'm seeing in chat and discussion, to have names correlated with the answers. But more concerned, interestingly, about affiliation because of the many hats some of us wear.

So, staff is it possible to do a full data dump, so if we get to a question that's 50/50 split or something like that, members themselves can go back to find out who said what, how people responded on those questions? Not something that staff would have to do but something that would be retrievable from the publicly – I don't want to call the data dump but that's really what it is, from the publicly published data.

JULIE HEDLUND:

Thanks, Kathy. Let me ask Ariel if she can answer that question because I'm not familiar with the survey tool and what it can't do. I assume we can just dump all of the data out. But again, if we wanted to see who said what, then you all would have to agree that we would be making the names public. Ariel?

ARIEL LIANG:

Yes. We can certainly create a spreadsheet which is linked to this Google form that displays each individual's answer to each of the survey questions and we can redact the email addresses to protect their privacy but we can show what other information the

working group agrees to display. So, it's feasible and it's actually automated.

KATHY KLEIMAN:

Thank you, Ariel. It's good to know what's possible. It sounds to me – and Phil and Brian, tell me if you agree – that we haven't come to a decision quite yet. To Greg's question, no. In the last two minutes, we cannot recap the last half hour.

I don't know. Let me ask in the chatroom ... Well, first, if we do the survey, it looks like people want slightly more than a week. A week may not be enough time, so we'll ask staff to keep that in mind. And that the collection of names for attribution purposes is something that people seem to be asking for. And I'm not quite sure where to go with that. Phil, do you want to do a final comment? Go ahead, please.

PHIL CORWIN:

Well, I was just about to raise my hand. I'm not sure where we're at. I know we're at the end of the call and I know that if we're going to do this survey and have any feedback on Montreal, based on it, we need to get it out today.

We have mixed views here. I'm not quite sure ... Let me give an example. Is it really important for me to know as a working group member ... I think it's useful to know that the overall results, that X% were members of the BC or the IPC or the NCSG or something. That's interesting. But none of it is going to be determinative. We're going to have detailed discussion where

everyone's personal views are going to be made clear in the discussion based on the survey information afterwards.

Do I really need to know on a specific proposal as a working group member that Jason Schaeffer was for it and Cynthia King was against it or vice versa? How does that inform me when I'm trying to participate as a working group member to discuss the proposals afterwards?

All I know as a co-chair is that I thought it was not a responsible approach to ask the community to comment on 31 proposals, many of which probably have little support and have close to zero change of ever getting consensus support and being a final recommendation. That would be doing a better job if we came back, knocked the number down somewhat – because we're going to have to vet them all anyway either before the initial report or after. And I think we're over complicating this.

I think the idea was just to ask the working group members ... And I don't really care whether it's anonymous or people give their names and say, "I answered the survey." But it's just to find out on a specific proposal how many of the working group members participating in the survey think it's a good proposal or an important one to put out for community comment or how many think it's a ridiculous proposal or that the issue is not at all important and [inaudible] putting a burden on the community? That was the concept and I think we're getting into just over complicating something that was supposed to be a very simple information gathering tool, and in the process to refamiliarize all the working group members with what these 31 proposals are.

As Jason said, with a year behind us, if you look at them now, you might say why are we proposing this? We don't need to ask that one. Or the next one you'll say, "Yeah, that's really important. That's a good idea and we should get community feedback."

So, I think it'll sort itself out if we can just use this more efficient means of collecting working group feedback than extended discussion of each individual proposal without that data background. Thank you.

KATHY KLEIMAN:

Phil, if we can collect ... [inaudible]. I'm sorry to take people over time but we are deciding whether the link literally goes out right after this meeting or with small modifications. If rather the names we add an affiliation field suggesting that people provide their stakeholder group or their constituency not that they're ... And to note that they're not speaking for their stakeholder group or constituency are also outside fields. Can we do that and then consider whether to do ... We might do a data dump that would include those affiliations with each question.

PHIL CORWIN:

Yeah. I'm fine with that. It would be useful to get a picture of the background of those participating in the survey, although again, just because you're an IPC member doesn't mean you're going to ... Two IPC members might differ on a particular proposal based on other factors.

KATHY KLEIMAN: But we'll have that data available should someone, not staff, want to dive into it.

PHIL CORWIN: Sure.

KATHY KLEIMAN: Okay.

PHIL CORWIN: But again, the answers and the affiliations are not going to determine whether the proposals or an initial report is going to be the working group discussion after we have the information. Thank you.

KATHY KLEIMAN: Right. The working group session in Montreal as well as probably for a meeting or two after Montreal. Phil, thank you very much for coming on.

PHIL CORWIN: You're welcome.

KATHY KLEIMAN: We're at time. Did you want to comment very briefly or can we go forward or shall we close it out? I saw you put a comment into the chat room. If you're speaking, I can't hear you.

UNIDENTIFIED FEMALE: Who are you referencing?

KATHY KLEIMAN: Cynthia. There's still a hand up in the participation room and it's been up for a long time. So, I'd like to close the meeting with where I think we've got which is this very limited attribution. Greg, all of those questions and more will be discussed on Sunday in Montreal at our meeting which I hope you will be at. Okay, all hands are down. Thank you for the extra few minutes. Thank you for the hour-and-a-half plus discussion. Looking forward to seeing you or hearing you remotely in Montreal. Safe travels. We are off next week. No meetings next week. Survey links will be going out shortly as modified by staff. Thank you very much. Take care.

JULIE HEDLUND: Thanks, Kathy. Thanks, everyone, for joining. This meeting is now adjourned.

UNIDENTIFIED FEMALE: Thank you. This concluded today's conference. Please remember to disconnect all lines and have a wonderful rest of your day.

[END OF TRANSCRIPTION]