
**ICANN Transcription
RPM Sub Group B
Thursday, 04 June 2020 at 17:00 UTC**

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MICHELLE DESMYTER: Welcome, everyone. Good morning, good afternoon, and good evening to all and welcome to the RPM Subgroup Meeting on the 4th of June 2020 at 17:00 UTC. In the interest of time today, there will be no roll call. Attendance will be taken via the Zoom room.

As a friendly reminder, if you would 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.

With this, I will now turn the meeting over to Paul McGrady. Please begin, Paul.

PAUL MCGRADY: Thanks. This is Paul McGrady. Today's call will be chaired by Zak, but because we had a leftover item from last week's call, I'll start out and wrap that agenda up. But first, I'll review the agenda.

One is we'll start with statements of interest updates. Two, wrapping up action item from the last meeting. Then the third will

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be reviewing the public comments for URS recommendations 2 and 3. Zak will take over at that point. Then any other business. We're not aware of any other business, but if there is any other business, if that could be put into the chat, that would be terrific.

So, to begin, any updates to statements of interest?

All right. Seeing no hands, we will move on.

The next issue is wrapping up the action item from last week. On URS question #1, we came down to the wire on time and we needed to decide what to do with it. So, we put it out to the list. Two options with respect to URS questions 1a and 1b, please indicate your preference for the subgroup should proceed in its summary to the full working group.

We put out there, option one was subgroup should, in summary to the working group report, if there was strong differences of opinion on a variety of responses to URS questions 1a and 1b, and any recommendation to the subgroup, is that the full working group should revisit these questions and the responses to them.

Then, option number two, which I was leaning towards on the last call because I do think that there were some differences of views but they weren't necessarily from a large group and not necessarily reflected in a very big way in the public comments was, option two, the subgroup should, in its summary to the working group report, that there were strong differences of opinion and a variety of responses to URS questions 1a and 1b. But in the absence of any high-level agreement, the working group does not need to take further action with respect to URS question one.

So, that went out to the group, to the list. We heard back, I believe, from three people, with one supporting option one and two supporting option two. So, based upon where the call was going last week, and also the feedback we got on the list, we are going to go forward with option #2.

So, that wraps up that. I see a hand from Kathy Kleiman. Kathy, please go ahead.

KATHY KLEIMAN:

Yeah. Hi, Paul. With respect, I'm not sure a one-two vote gets us to a decision on this. Maybe a discussion with the group would be good. With respect, there's been, as we used to say, as we said—used to say two months ago—with COVID, there's a lot going on, certainly for those of us in DC near Chicago and other places, there's a lot of stuff going on in the background—on the foreground really. I think we have to take the time to really look at this.

I wanted to pose an option three, which is something Phil mentioned—and Phil, if I've got this wrong, let me know—which is that if we look at recommendation #1, URS recommendation 1, more closely and evaluate that, we may not need to go to question 1a and 1b.

But I would vote for option one if we have to. So, I wanted to go back to that, which is if we don't amend the complaint, we don't have these issues. We don't inadvertently get to a disclosure issue. But I would put my vote, if I had to, with 1a because I think you have many, many comments in the direction of saying we

need to do something and we need to make sure we don't have an automatic default on disclosure, which could violate all sorts of things.

I don't think these options summarize that even though there were strong differences of opinion, the responses were all going in the direction of we have to do something. I do think we have to report that to the working group. Thanks, Paul.

PAUL MCGRADY:

Thanks, Kathy. To be clear, what we put out to the list was not a vote. Here at ICANN land, we don't vote. But I do take on board your comments. But to be fair to the people who did take the time to put their thoughts out on the list, I do think that postponing your comments until now really wasn't in the spirit of putting something out to the list.

I do want to push back just very gently on the idea that we haven't talked through this. We actually spent a significant amount of time on the last call talking through these issues. Again, it was a lot of people sharing the views that they have shared in the working group prior.

The question really before us isn't "do the working group members continue to have strong views?" but was there anything in the public comments that were now, un-talked about by the working group before or some new suggestion of how to fix the problem that exists?

And while there were certainly strong views, and we note that there are strong differences of opinions and a wide variety of

responses, there were not new ideas, there were not new solutions, and I feel comfortable that if you go back and listen to the call—the recording from the last call—we spent a significant amount of time discussing this. So I don't believe that we've given it a short shrift. In fact, I think we've given it a long shrift, if there is such a thing as a long shrift.

So, any other hands before we move on from here? Kathy, I see your hand again. Go ahead.

KATHY KLEIMAN:

Yeah. There's a suggestion that Renee Fossen had not had the ability to join us last week, but she's with us this week. So maybe we should listen to her input. Also, I am very, very concerned about the way we're doing this. Normally, we do things in the working group as well as on the list. Again, I don't think a one-two vote gets us anywhere. Thanks.

PAUL MCGRADY:

Thanks, Kathy. Again, if we are going to be stuck with the idea that whenever anything goes out on the list for timely comment, that that is somehow a vote, that's going to make the working group list not very useful as a tool. So I definitely think we need to avoid the idea that somehow the listserv is a vote. It is an opportunity for members to share their feedback on open issues and those usually come with some sort of time restraint so that we are able to keep on track with the agenda for the upcoming week.

So, let's see here if we have additional hands. I see we have Rebecca, Cyntia. Kathy mentioned Renee but I don't see a hand from her, so Rebecca, if you could please go ahead. Thanks.

REBECCA TUSHNET: Can you hear me now? Hello?

PAUL MCGRADY: We can hear you now. Yeah, we can hear you.

REBECCA TUSHNET: Okay. I actually did vote and I just want to put in the substance of my comment because I'm not sure everybody saw it, which is Phil Corwin has often said that in the absence of consensus, we don't do anything. So, this is a different situation, because given what's going on on recommendation #1, the absence of consensus is going to result in change. I think it's important that ... This is an important consequence of the change and we are divided on what it should be.

I really do think it has to go to the working group to reflect what's going on with recommendation #1. Thank you.

PAUL MCGRADY: Thanks, Rebecca. First of all, I do want to again very gently push back on the [V]-word. Postings to listservs can't be considered votes. You and Kathy have both used that word. I hope we can avoid using that word because that's not what listservs are for.

Secondly, you do know that some change will occur, but I don't think that change is occurring because of what we're doing. I think that change may be occurring because of what the EPDP is doing and I'm not really sure that that's up to us.

All right. Next up is Cyntia. Please, go ahead.

CYNTIA KING: Can you hear me?

PAUL MCGRADY: Yes, go ahead.

CYNTIA KING: Okay. I have a tough time hearing you but I'll go ahead. I'm going to be very quick. Respectfully, to everyone who is on this call, I appreciate that you've taken the time today to be here. Last week, the same thing happened. Other people joined the call.

We knew from the beginning that this was going to be a very tight timeline which is why we broke down into the sub-teams to do the work and then report back to the group.

This was an issue on the call. We decided we couldn't finish talking about it on the call, but in order to meet our deadlines, we decided that we would put this out talk to the listserv so that people could respond fully. We had lots of discussion and we asked people to respond fully.

If every time that there is an issue that doesn't get resolved on the call we push this off and make it something we discuss again, and then say if we can't discuss it as fully as we wish and we just have to toss it off to the entire working group, we're never going to meet our deadlines and we're not going to be able to do what we need to do.

So, I respect the idea that everyone has a day job. I know I do. And I respect that there is a lot going on in the world today. Anybody who is in the US sees it everywhere you are. But if we are going to meet our deadline and do our job, then we have to either [inaudible] or discuss and then a decision has to be made at some point that we'll either support or not support—and in very few instances [inaudible] entire working group because [inaudible].

PAUL MCGRADY: Cyntia, I think we've finally lost you.

MICHELLE DESMYTER: Cyntia, can you use your phone audio? And we can mute your Zoom audio. I'm going to unmute your phone.

CYNTIA KING: Thank you. That's the extent of my comment. I just really feel like if we're going to stay on deadline and do our job, then we have to participate. And then once the participation portion of that comes, we either have to make a decision and move on, or in very few cases, report to the entire working group. But if every time we don't come up with an agreement on an hour-and-a-half long call,

we toss it over onto the working group, we're never going to get anything done. Thank you.

PAUL MCGRADY: Thanks, Cyntia. I appreciate that. Next we have Renee's hand. Renee, please go ahead.

RENEE FOSSEN: Hi, can you hear me?

PAUL MCGRADY: Yes, I can hear you.

RENEE FOSSEN: Okay, thanks. First, I just wanted to apologize for not being on the call last week. I had some other things going on. Obviously, things are a little bit of shambles up here in the Minneapolis area. So I apologize and I just wanted to say that I think the main question from last week was whether or not the caption would be amended as well, and it would. Just so people know that. I'm putting that out there. And I think Paul is right. That's kind of a separate issue with the EPDP track as to what we're doing now as far as giving the opportunity to amend the complaint. I'm always available for questions if anybody needs to go offline and wants to ask me anything specific about what we plan to do. Thank you.

PAUL MCGRADY: Thanks, Renee. Next up I see Phil, and I'm going to call for a last call on hands on this because I do need to give Zak enough time to do the work of today's call. Phil, can you go ahead?

PHIL CORWIN: Yeah. I had to double unmute. I'll be brief. Since my name has been evoked twice by other people, I should actually speak for myself.

On this one, I think other than identifying that there's disagreement over the answer, we're not going to accomplish anything more at the subgroup stage. When you look at the answer on the basic question of those responding, the ratio was 4:3, four against on the basic question. Then when you got to the standard for redacting the information if it had been added to the complaint after filing, we had nine different suggestions.

So, I think interested members of the working group should think about how to synthesize all that and propose some way out of this that can get consensus support at the full working group level. But I don't think we're going to solve it on this call. Thank you.

PAUL MCGRADY: Thank you, Phil. All right. So we're at the end of our queue. I see Paul Tattersfield's hand [inaudible] draw a line underneath Paul. Paul, please go ahead and then we're going to have to deal with this so that we can get on with the agenda for today's call.

PAUL TATTERSFIELD: Thanks, Paul. I did pose a possible workaround to the list and I just wondered if that could be considered and how that might solve it.

PAUL MCGRADY: I'm very aware of the time here. We're 20 minutes into the call. This was supposed to be five minutes. Paul, do you think you could present what you have to say in two to three minutes and then we could maybe run a queue with a two to three minute deadline? Then we really do need to move on. Is that agreeable?

PAUL TATTERSFIELD: Yes, of course.

PAUL MCGRADY: Well, go ahead, Paul. Thank you.

PAUL TATTERSFIELD: Right. Thank you. All I was going to say was the default position [inaudible] underlying respondent data. However, if the complainant is successful, then the panelists have the discretion to withhold the publication. If the respondent is successful, the respondent may require the publication to be withheld. It's just as simple as that—to put in safeguards, so that somebody can't bring a predatory URS. Thanks.

PAUL MCGRADY: Thanks, Paul. So, that goes back to the ... The comment goes back to the substance of last week's very long call on this subject. The question we're trying to decide is: what do we do with this? Because I promised to, I'll open a queue here for two to three minutes in the event that people would like to discuss what Paul has to say. But again, I think what we're doing is getting into specific ideas about the underlying issue as opposed to figuring out what we report to the full working group on this.

So, Paul, I see your hand is still up. Do you want to speak again or is that an old hand?

PAUL TATTERSFIELD: It's an old hand. Sorry.

PAUL MCGRADY: Okay. Any hands in response to what Paul has said? Griffin, I see in the chat that you had some comment in chat. Do you want to raise your hand and give us that verbally?

GRIFFIN BARNETT: Yeah, sure. I'm happy to respond orally to Paul's suggestion. I said, again, that I can support Paul T's suggestion with the change that if respondent is successful, the respondent may request that publication of their identifying information be redacted, subject to the panelist discretion to hold otherwise. So it's sort of a tweak to Paul's suggestion, but I think it proposes a reasonable solution to I think views that have been raised by

some who are concerned about complete publication of this data and I think it's worth potentially further consideration.

And while I did support option two, I think in light of some of the additional discussion that we've had, this may be hopefully a rare instance where this might warrant some further discussion at the full working group level, but again I defer to the leadership on that point. Thanks.

PAUL MCGRADY: Thanks, Griffin. Next up is I see Kathy Kleiman. Well, briefly there was Brian but he seems to be gone. Next up is Kathy Kleiman and then the other Paul. So, Kathy, please go ahead.

KATHY KLEIMAN: Actually, I do think Brian was next. I was going to follow him.

BRIAN BECKHAM: Sure. I was just going to say I see Griffin's suggestion. I wanted to just raise a little bit of a concern. Sorry to be a bit of a splash of cold water here, but about just deciding these things on the fly. I mean, if it's something uncontroversial and we all agree, fine, but I feel that probably this [merit is a little] [inaudible]. I can imagine instances both where a successful respondent would want the information out there that they've won. I can also imagine instances where, despite a request from them, a panel would find it appropriate to record that. So, just wanted to register that. Thanks.

PAUL MCGRADY: Thanks, Brian. Kathy, your hand is up. Please, go ahead.

KATHY KLEIMAN: Thanks. I think it's an important discussion to be having. I'm still back in why amending the complaint means amending the decision, amending the publication. I still don't know how and where we made that decision.

But on this, it can't be subject to ... The examiner's probably ... This is a lot of expertise for the examiners to have on GDPR, as well as slam-dunk cases of trademark issues—trademark domain name issues. It's a lot of expertise.

I'm a little concerned about imbedding this into this very fast low overhead type of URS process and I think we have to look carefully at this. Most respondents aren't going to respond, so they're not ... You can win, of course, even ... Obviously, registrants should not be disclosed if they win. I don't think there's any justification for that.

Anyway, I think all of this is very complicated and we need some time, which is why the comments were so diverse here—because this is a difficult issue. Thanks.

PAUL MCGRADY: Thanks, Kathy. Appreciate that. Next up was Paul T. Please go ahead. Paul, we can't hear you.

PAUL TATTERSFIELD: I just wanted to see if it was something we could resolve here. The working group has gone on an awful lot in time and these sort of nuances I think should really be sorted if we can and we can do it easily. That was it. Thank you.

PAUL MCGRADY: Thanks, Paul. So, I see in the chat from Kathy, she says, “Registrant should not have to ask for nondisclosure.” I see Rebecca Tushnet’s comment that [inaudible] to say about the suggestion. I do see some support from Griffin and from Cyntia for Paul’s suggestion, but I’m not seeing a clear consensus forming around Paul’s suggestion.

So, I think we are sort of stuck a bit where we were last week in that we have lots of ideas but no agreement. I think, for the sake of good order and to show my ability to be open minded, since we do have this new idea where there is some traction for it, there might be some traction for it, that based upon comments—for example, Rebecca said she had some comments about it. That wasn’t a universal no. Kathy’s comment wasn’t a universal no, but I think her comment was a tweak.

Let’s draw a line under all of this and we will do a summary of the issues for the full working group and we will send this one to the full working group for further consideration.

I came in with one point of view on this and I have 180’d with all of your wonderful help. Thank you for your many hands and comments. So, it will be an option one with some detail for the

working group about what it was that we've talked about for so long.

So, unless there is any objection to that, any hands? Once, twice, three times. Okay. Zak, agenda item number three. It's all yours, buddy. Please, go ahead. Thank you.

ZAK MUSCOVITCH: Thanks very much, Paul. Am I being heard? Someone answer affirmatively for me.

UNIDENTIFIED FEMALE: Yes.

ZAK MUSCOVITCH: Okay, very good. All right. So, we shall proceed. Thank you, Paul. The first thing that we just need to briefly note is that, on Tuesday, staff sent around at the co-chair's of this subgroup's request a draft [inaudible] parameters for the subgroup. And this relates to the kind of comment that Phil just made and the kind of comment that Susan made just a little earlier in the chat about how we're going to filter these recommendations, how we're going to look at them. Does the subgroup make changes or does it just identify issues, throw them to a working group, etc.?

We didn't receive any feedback from outside of the co-chairs and the chairs of the full working group [inaudible] yet. We're still finalizing some proposed text on that. But generally speaking, it conforms with the kind of thoughts and expectations which we've

discussed in the last calls here in subgroup A. So expect to get that back out to the subgroup shortly.

So now I think we can move on to URS recommendation 2. And just so everyone is aware, it's my first time trying to keep several windows open and also see whose hand is up. So just bear with me on that respect.

So, URS recommendation 2 is the first on the agenda. I'm just going to read the recommendation 2, which I'm sure you've all read before today's call. The working group recommends that URS providers send notices to the respondent by the required methods, after the registry or registrar has forwarded the relevant WHOIS RDDS data, including contact details of the registered name holder to URS providers.

What I would like to do just first before we get into looking at the data and trying to understand what steps we take is impose upon Renee. If she could just briefly describe for us what the procedure is now and what this recommendation would entail. And if Renee's not up for it, I have someone else I can pick on as well. Okay, Renee, I see your hand is up.

RENEE FOSSEN: Can you hear me?

ZAK MUSCOVITCH: Yes, can hear you now. Thank you, Renee. Thanks for volunteering.

RENEE FOSSEN: Sure, no problem. For us, this is a no-brainer, too. That's what we do. Obviously, there's information that's provided in the complaint which may or may not be correct and it may even include information that the complainant may have on an attorney that the respondent may have.

And we take all of that information. We request the registration data from the registry. If they don't have it, sometimes we do have to go to the registrar. I know that was one comment from Tucows, I believe.

Then we take all of that information on the same day and send it out fax email, and mail. So that would be the start date and I think that addresses George Kirikos's concern on the staggered fax, email, mail. We wait until we have all of the information and then we send it out at the same time. I think that might be it for that one. Any other questions for me?

ZAK MUSCOVITCH: Yes, sorry to interrupt you. In terms of Tucows's comment to remove [inaudible] registrar, which is also raised I believe by Phil in the chat, is this an [inaudible] to include registrar in addition to registry or did you mention that that actually is who may be providing you with the data upon issuance upon submission of the complaint?

RENEE FOSSEN: I will say, initially, post-GDPR and immediately thereafter, we probably got a lot of registries that were hesitant to give us the information and directed us to the registrar. So that's why we contacted them. There wasn't some sort of a pipeline between the two of them or one felt more comfortable than the other providing us with that information. We got it from whoever would give it to us at that point.

Since then, I think that's dropped off quite a bit and the registries have mainly been the ones providing that information, but there's still the occasional, "We don't have it. You're going to have to go over here and get it." And then we do.

ZAK MUSCOVITCH: Okay. Does anyone have any questions about the status quo and what the recommendation involves factually? If so, I'd like you to ask the question now. Otherwise, I want to go on to the next step which is to determine how we view this recommendation. Looking for hands. Any questions factually about the recommendation and current procedure?

Seeing none, we can first take a look at the donut as it's been called. We see that it has considerable support and there's additional support for the concept, etc. Is there anyone who has the view that there is some new perspective or new fact or new consideration that the working group has not previously considered that has arisen as a result of the public comment that we should identify and refer to the working group for consideration?

So just to try to repeat that ... Yes. Paul in chat says I get the easy ones. Well, we'll see. As soon as you say it's easy, it'll turn out to be hard. Let me rephrase it one more time and ask for any hands. Are there any people who have identified any new perspective or interest or facts or errors in this recommendation that should cause us to refer to the working group for further consideration? Now looking for hands. I'm still looking for hands. I see Susan Payne. Please, Susan. Please speak.

SUSAN PAYNE:

Yeah. Thank you. Hi. I just wanted to flag the IPC's comments. It's really just a tweak. It's down in line 31 by the look of it. I think there's a potential gap, if the registry and/or registrar don't provide any data. I mean, I think it's implicit that, if they don't, then the notice has to go to whatever contact information is available, but we felt that that, whilst it might be implicit, it's not explicit. So that was something that was something that needs to be specifically referenced.

ZAK MUSCOVITCH:

Okay, Susan. Just so I can clarify for myself, as well as for anyone else in the group—

SUSAN PAYNE:

Sorry. Should I read it?

ZAK MUSCOVITCH: No, no. I see it. You're saying that this is the IPC ... The [capsulation] of the IPC's comment at line 31, support the recommendation as written with a caveat that if the registry or registrars do not timely provide or fail to provide within the designated period of time, the underlying information regarding the respondent, the URS provider shall then send the notice by the prescribed manner to the respondent at the contact information that is then available.

So, I think what you're saying, Susan, is it may not be clear enough that in the absence of new additional registrant information being provided by the registry or registrar, that the beta as provided in the public database should be used by the provider to provide the notice. Is that what you're saying?

SUSAN PAYNE: Yes.

ZAK MUSCOVITCH: Okay. Does anyone else have thoughts on Susan's observation? Any additional thoughts on Susan's observation?

KATHY KLEIMAN: Zak, there are two hands up.

ZAK MUSCOVITCH: Okay. As I said, you have to bear with me a little bit. This is like NASA over here with all the windows I have open. All right. Let's

see. Who's first in line? Kathy, it's showing you as first in line. Are you first?

KATHY KLEIMAN: I think so. Cyntia can disagree.

ZAK MUSCOVITCH: All right. Next customer please.

KATHY KLEIMAN: It should show you the hands in the order that they're raised, except maybe for your own hand. But you don't have to raise your hand because you're the chair. It is hard to do all this in real time.

ZAK MUSCOVITCH: Okay.

KATHY KLEIMAN: So, I wanted to ask a factual question and it's to all URS providers on the call. Maybe Renee. That is how is this done now? Before we add more clarifying or changing language, what happens now? My understanding is—and please correct me—that there's two or three days, either regular days or business days, for the providers to contact the registries and registrars. They then provide the unredacted WHOIS data. What happens if you don't get it? Thanks.

ZAK MUSCOVITCH: Okay. Before we get to you, Cyntia, I'm just going to ask Renee to pop in and answer that. What do you do now factually if you do not receive any data or there's a delay receiving data from the registry or registrar?

RENEE FOSSEN: If there is a delay, we actually contact our contact at ICANN who then helps with that registry relationship and tries to get them on the line to figure out what the problem is and then we try again with the registrar.

And if we don't get anything ... We try several times. If there's enough information in the WHOIS that it looks like it's a valid address, then at that point we'll send it out to that address because we have to move forward with the case.

ZAK MUSCOVITCH: Okay, thank you. Kathy, does that answer your question?

KATHY KLEIMAN: It does, and I think it may ... I mean, it's a good process. The registry, ICANN, the registrar. So the question to Susan, I guess, would be does the language of the IPC in any way intervene or change what Renee just said as the informal process that's been adopted? Which is multiple tries to try to get the right information. It could be language problems, etc., with new registries and registrars. Thanks.

ZAK MUSCOVITCH: It seems to me that what Susan was saying is that it may be implicitly the case that that's what the provider would do in those situations, but it could be clear. So, perhaps that is a notation that can be made for ... Just make that note to the working group. Is that a solution for this is to put it to the working, just to make a notation this recommendation stands but there was an identification that there may be further clarification required. Is that agreeable to this working group? Just looking in chat to see if there's any comments. Susan says, "That sounds okay." It seems to be [inaudible] from Griffin. Is there anyone who thinks that's a lousy idea? You can maybe put it in chat for us. Rebecca Tushnet agrees. Thank you. Anyone think it's a lousy idea to do that? Peter Rindforth. Okay, we're getting pretty close to ... Oh, and fine from Cyntia. Okay

KATHY KLEIMAN: I think [inaudible].

ZAK MUSCOVITCH: Listen, what I'm going to do is I'm going to ask staff to just make a note of that, that in terms of this URS recommendation 2, it's going to proceed as-is as far as the subgroup is concerned with the notation to the working group that further clarify in terms of what the provider does, if it doesn't receive or is delayed in receiving data from the registrar or registry in this situation. Further clarity may be required.

Okay. All right. I think Cyntia, your hand is still up. Is there something that you'd like to say on this URS recommendation 2, please? I see Phil and Brian as well. So, Cyntia, please.

CYNTIA KING: Hi. Can you hear me?

ZAK MUSCOVITCH: Yes. Thank you, Cyntia.

CYNTIA KING: I apologize. I have an unstable connection today. So when you were asking if there were further questions for Renee, I was unable to shoot my hand up. I did have a quick question for Susan Payne and Renee. Is it the case that some registrars use their own information to mask the domain owners information at the registry level, such as Corporation Service Company?

ZAK MUSCOVITCH: Renee, could we have a brief answer if you know the answer to that from your experience?

RENEE FOSSEN: I don't know the answer to that.

ZAK MUSCOVITCH: Cyntia, does that seem to be your understanding that some registrars do that?

CYNTIA KING: You see the information in WHOIS. It's not just redacted and it doesn't appear to be a third-party privacy service. It appears there are some registrars that use their information instead of registrant information and I'm just unclear whether that happens at the registrar level or the registry level.

So, for example, Corporation Service Company is a large corporate registrar, so they obviously have clients who don't want their information out there which we all understand. But does that masking happen at the registrar?

The reason I ask is because Tucows has taken the position that only the registry has the information, but I'm wondering if it isn't true that sometimes the registrar has the information. Thank you.

ZAK MUSCOVITCH: I see. Okay. Well, I'm not sure we'll get the answer to that question on this call, but it's an interesting question. I'd like to know the answer to that, too. Maybe someone can take it upon themselves to ask Tucows after this call or [inaudible] and see if they can bring back an answer to the group.

Cyntia, is that okay with you?

CYNTIA KING: Understood. Yes.

ZAK MUSCOVITCH: Okay. Phil Corwin, your hand is up. You've been waiting a while. Sorry.

PHIL CORWIN: Speaking on a personal capacity. Three quick comments. One, if I'm not mistaken, the most important words in this recommendation are "by the required methods", that the focus of this recommendation was responding to the fact that we found that at least one of the providers was not using all the required methods to notify the respondent. So that's what this recommendation was about.

Second, I understand the IPC's concern, that as written, it might create the unintended implication that if they don't get that data from the registry or registrar in a timely manner, that the case never goes forward. That shouldn't happen, so I think we're all agreed that this should be clarified. And if it is clarified, of course it is clarified for all registries—I mean, for all providers—and that would respond to Kathy's concern.

Finally, I would note that the pie chart shows that 20% didn't respond or had no opinion. The 80% who responded or had an opinion, 75% were in full support as written or with some minor tweaks, which is what we're discussing now.

And a very small minority, under 4%, oppose.

So, I would say if any proposal has a good shot of getting consensus support in the full working group, it's hard to imagine one with a better chance than this. It's not for us to determine, but

we should just clarify this so it doesn't create any unintended implication. Thank you.

ZAK MUSCOVITCH: Thank you, Phil. In regards to your observation, and Griffin's also in the chat, that it was the [inaudible] that the subject of this recommendation, that may be, however ... If it is, on the next URS recommendation we're going to, we can deal with that. In fact, I saw that a lot of the comments were about the means of providing notice in response to the URS recommendation 2. So we can get to that.

In the meantime, I see Brian has been patient. He had two hands up at one point, not one hand. So, Brian, please go ahead, my friend.

BRIAN BECKHAM: Thank you. I just wanted to make sure we don't overlook something, which I think is the recommendation. It's relatively uncontroversial. But with respect to the, I suppose, suggested improvement or modification from the IPC's comment, I heard Renee say something I think about not wanting the case to not proceed—or maybe that Susan. I'm sorry if I'm misattributing that.

I've just been looking quickly at the URS itself and the rules, and I know our experience in UDRP is that both have the requirement that the respective contracted parties to the registrar and the UDRP or the registry for the URS mock the domain name, and in our experience, if a registrar for the UDRP is not timely providing the contact information of the registrant, then we're also basically

in the dark unfortunately as to whether the domain name is locked. So at least, for our part, we are hesitant to notify a case, because unfortunately a few cases over the years, even despite a registrar telling us the domain name is locked, then they allowed a subsequent transfer and it just opens up a can of worms with new registrants and the status of the case and so on.

I just want to flag that I understand the intent of the IPC's comment, that basically the case shouldn't sit in limbo, but if the registry doesn't reply, I think does raise a question of whether the domain name is locked and whether it's advisable to proceed with notifying the case. You can imagine if a new innocent registrant obtains the registration [midstream to a case] it could raise some pretty significant questions about the disposition of that domain name. Thanks.

ZAK MUSCOVITCH: Thank you, Brian. I see Renee's hand is up. Please, Renee. Renee? Maybe she's a victim of double mute.

RENEE FOSSEN: I was a double mute. I was. Thank you. Thank you, Brian, for bringing that up. This is an issue that's very, very rare but it does happen. Usually, I would say—I'd have to talk to the coordinators that we have to see how often it's happened before I came on board, but I would say 99% of the time we're able to get that information. But if we don't, then we advise the complainant that it's possible we could potentially move forward, but the very issue

that Brian brought up, that the domain name [inaudible] going to be locked and that could cause some major issues.

At that point, I think historically the complainant has decided just to wait and usually gives us permission to kind of hold off on commencing the case until we get that information from either the registry or the registrar or ICANN helps us out to get that information, if that's helpful. But yeah, it is an issue.

ZAK MUSCOVITCH: Okay. Brian, is there something that you think we should address in regards to those issues on URS recommendation 2?

BRIAN BECKHAM: Yeah. I think, frankly, it doesn't really speak to the recommendation as worded. It was more about the IPC suggestion. We take a similar approach as Renee. We do inquire with the parties, but ultimately, it's an ICANN Compliance issue. We also invoke that from time to time.

I guess it's a question, back to Susan or the IPC, whether they're comfortable with the recommendation as written or whether they would find it important to incorporate their comments.

ZAK MUSCOVITCH: Okay. Susan, would you like to respond to that, please? Thank you.

SUSAN PAYNE: Yeah. Well, I can't really speak for the IPC but I can certainly take it back and asked based on what's been discussed here.

ZAK MUSCOVITCH: Okay. Renee, I see your hand is still up. Is that a new hand? If it is, please speak. No. Okay. Are there any other comments on the URS recommendation 2 before we move on to 3? I believe that some members have raised the issue of the means of providing the notice should be addressed in this recommendation and they may be correct. However, we will see [surely] when we get to URS recommendation 3 that a lot of the comments directly address the means of providing notice. Not just the language, but whether it's fax, email, postal, etc. So I think we can deal with this under recommendation 3 possibly as well.

Are there any other comments before close off recommendation 2, please? Okay. Staff, may I ask, you're clear on what the resolution of resolution 2 is? Julie, Ariel? Okay. Yes, thank you.

Moving on to URS recommendation #3. It's up on your screen. I'll just read it. It's very short. The working group recommends that URS providers must comply with URS procedure paragraph 4.2 and paragraph 4.3 and transmit the notice of complaint to the respondent with translation in the predominant language of the respondent via email, fax, and postal mail.

So, once again, what I'm proposed to do is ask for some factual background to be provided, both what the status quo is and what the implications of URS recommendation 3 are from Renee, if she

doesn't mind subjecting herself to my questions one more time.
Renee?

RENEE FOSSEN: Once I unmute myself.

ZAK MUSCOVITCH: Thank you.

RENEE FOSSEN: Go ahead.

ZAK MUSCOVITCH: I was just going to say 4.1 and 4.2 of the procedures deal with the notice and locking procedures, if you could just explain how it works out and what the implications of this recommendation would be.

RENEE FOSSEN: Well, I think this recommendation is pretty much encapsulated in the procedure as it is written right now. I think it's just a matter of compliance with providers.

We do transmit the notice of the complaint with the translation of the notice in the language of the respondent. Again, I think the predominant language issue is one that's addressed elsewhere, with the recommendations and proposals. Sometimes, that's something difficult to figure out, depending on the region, where

the respondent is from. But we do translate it and we send it via fax, email, and post.

ZAK MUSCOVITCH: Okay, thank you. Let's see here. Maybe someone from the subgroup can help us out here. Was this one of the situations where the working group as a whole identified non-compliance by a particular provider or providers and that was the background to this recommendation? Kathy, I was hoping that you'd raise your hand on this. Thank you.

KATHY KLEIMAN: Thanks, Zak. Happy to help. Yes, we did find that at least one of the providers was not—and not Renee—was not providing the complaint via email, fax, and postal mail. And of course all of these are designed to try to approach some type of actual notice for the registrant, and email coming from a source that they don't know will often go into spam.

I think here the interesting issue, Zak, and the reason we see this kind of light green for support with a change is a number of ... So, I think we're overwhelmingly seeing support for this, which is great between support as written and then support with a small change, I think we're well close to [inaudible]. Somebody can check my math.

I think the issue is whether the translation should be in the predominant language of the respondent or—and staff was about to page down so I'll pause. In the predominant language of the respondent or I think the language of the registration agreement is

what we see a number of commenters asking for. So, that might be a place to focus our attention on, given that I think overall there's overwhelming support for this recommendation which is really in keeping with our original rules.

Back to you. Thanks, Zak.

ZAK MUSCOVITCH:

Thank you, Kathy. I do see that there's a lot of comments here about the method and means of transmission and about the language of transmission, etc. I think we should and will look at that. But before we do, I just want to circle back and remind the subgroup of the general [inaudible] parameters that we should be looking at it in case it impacts our approach to this.

One is have there been any new perspectives or new facts that have been provided that should cause us to recommend to the working group that [we consider] this or any errors that should be addressed in the recommendation? Is there anything new here that we think should be taken into consideration, given that this has already been the working group's recommendation that was hard to achieve to begin with?

So, I think there's one hand up from Susan Payne. Susan, why don't you kick off this discussion for us?

SUSAN PAYNE:

Thanks, Zak. So, I think there are both those things, albeit that they're tweaks. So the first is that there are a bunch of commenters who have pointed out that the sort of shorthand being

used in the URS recommendation #3 is not an actual accurate reflection of what those paragraphs in the existing procedure actually say. So the shorthand talks about the notice of complaint being into the predominant language of the respondent. However, those paragraphs in the URS procedure actually don't say that. They say into the predominant language used in the registrant's company or territory.

So, there are a bunch of people who have pointed out that the recommendation as it's currently written is somewhat inaccurate. And then there are another bunch of people who have said irrespective of that, we think what it should be is the language of the registration agreement. So that's a suggestion of a change. So it shouldn't be the predominant language of the registrant's company or territory but actually what we should be looking to translate into is the language of the registration agreement.

As Kathy pointed out, there are a bunch of people who are suggesting support for the concept, but minor changes, and [inaudible]. Some who are just pointing out a factual error in how the recommendation is written and some who are suggesting an alternative.

ZAK MUSCOVITCH:

Okay. Thank you, Susan. I'm going to try to impose upon David McAuley because he made a comment about 4.2 in the chat about what 4.2, the URS procedure, actually says. Let's see if we can straighten out the facts first. David, would you mind sharing us [inaudible] report about what 4.2 says which Susan also touched on?

DAVID MCAULEY: Okay. Thank you, Zak. I assume you can hear me?

ZAK MUSCOVITCH: Yes. Thank you.

DAVID MCAULEY: I don't want to [inaudible] but I noticed this before, too, that what 4.2 actually says, its last sentence—this is the only provision of 4.2. This is simply the last sentence of 4.2. It says, "The notice of complaint"—and I'm reading from it—"shall be in English and translated by the provider into the predominant language used in the registrant's country or territory." End of quote. Thanks, Zak.

ZAK MUSCOVITCH: Okay, thank you. Let's see if I'm able to cut and paste this into the chat. There it is in the chat. The notice of complaint shall be in English and translated by the provider into the predominant language used in the registrant's country or territory.

Susan, was one of your initial points that the recommendation itself misstated what 4.2 says? Because it refers that translation in predominant language of the respondent rather than the predominant language used in the registrant's country or territory. Was that what you're saying?

SUSAN PAYNE: Yes.

ZAK MUSCOVITCH: Okay. Are there any comments on the accuracy of the recommendation beyond what we've heard? Okay. I believe Kathy has asked a question of Renee, and David agrees it's a good question. Renee is my favorite victim of today. Renee, the question is: is there any issue here? I believe this is still getting at whether the recommendation has an error in it that needs to be addressed. Is this a material issue, Renee, in practice?

RENEE FOSSEN: I would say that it's not a huge issue for us in practice. I will say, though, that we have rejected cases where we don't think that we can get anybody that could speak the language of that country or territory. But as far as getting the translations done and getting things out the door, that's not a huge issue. It's just shades of gray I guess in the interpretation of the language.

ZAK MUSCOVITCH: Sure. Renee, when you look at the language of 4.2 and you see that it says the predominant language used in the registrant's country or territory, does that present any problem to you in practice of identifying the predominant language used in the registrant's country or territory? And just related to that, do you think that the recommendation itself is factually inaccurate, such that without even opining on whether the recommendation should carry forth or not, it just needs to be reworded because there's an error?

RENEE FOSSEN: Sorry, unmuting myself.

ZAK MUSCOVITCH: Let me rephrase it for you, Renee. The recommendation says translation in the predominant language of the respondent. It's been pointed out that what the rule actually says is predominant language of the respondent's territory. So, (a) do you agree that there needs to be a clarification there about with the [sys] providers, and (b) is there any difficulty in identifying the predominant language of the respondent's jurisdiction?

RENEE FOSSEN: I would say, as far as a clarification, that language certainly wouldn't hurt. Anything that makes it more specific is for the best, but in practice, it's not bad and a huge issue. But I will tell you there's no clear-cut method as to figuring that out. We do a lot of Internet searching to try and get statistics on languages spoken in some areas that have a lot. Even within a country or territory, there could be several different languages spoken that would be almost kind of equal as far as predominant. So there is some interpretation that we need to make there.

ZAK MUSCOVITCH: Okay. So, there's two issues on the table right now. One is whether the recommendation should be clarified to better reflect the precise language in 4.2 that David provided us with. That's the first issue. The second issue is: is there a significant enough issue in a provider's ability to determine the appropriate language such

that based on the public comments, we should be looking at some other solutions?

I see Susan's hand first and then we'll go to Cyntia afterwards. Susan, please.

SUSAN PAYNE:

Okay. Thanks, Zak. It may be that it's petty, but I absolutely believe that imprecision of language is a failure and that we absolutely ... If the recommendation is to stay as is, that we absolutely should be flagging that it needs to be amended, so that if it's referring to 4.2, it refers to what 4.2 actually says rather than a paraphrase which is incorrect. I could be a Japanese person living in France and the language in question is very different, depending on whether it's the language of the respondent or the language of the territory. But I do also think—

ZAK MUSCOVITCH:

Sorry, Susan. Let me just stop you there. Let me ask the group: is there any objection to correcting—I believe it sounds like it's a correction—correcting the recommendations language to exactly reflect the language of 4.2? Is that just a simple correction we can make or is there any basis for objecting to that? If someone has a basis for objecting to that, we could look into it further, but if not, we can cross that one off.

Okay. I think Cyntia may have a comment on this, too. Cyntia, do you have a comment on whether there's any objection to just crossing that one off and correcting the language of the recommendation?

CYNTIA KING: Yes. So, I understand what Susan is saying and I absolutely agree that the language of our recommendation should reflect the actual language, unless we decide to tweak this based on the public comments. And the public comments, many of them suggested that the most consistent and effective way to notice registrants would be to use the language of the registration agreement rather than language of the territory or whatever. I think that we should consider that.

ZAK MUSCOVITCH: Okay. Thank you, Cyntia. So, what you're saying is that if we were to even set it aside, we might have to revisit it momentarily when we get into some of the comments. Fair enough.

I just wanted to let Susan finish because I had interrupted her after her first thought. So, Susan, please go ahead and then we'll go to Phil.

SUSAN PAYNE: Thanks, Zak. I'm good. Cyntia said it. That was what I was going to go on and say. Cheers.

ZAK MUSCOVITCH: Okay, thank you so much. Philip?

PHIL CORWIN: Yeah. Just quickly weighing in on a personal capacity. Unless there's some impetus to change the URS rule itself at the full working group level, the recommendation should reflect the actual current requirement in the URS procedure 4.2 by stating that they must comply but then stating a different standard than what's in 4.2 now, we're just creating confusion. So, unless we're going to change 4.2 and that hasn't been proposed [yet] and that would be a full working group issue, the language should be changed to accurately track what's in the current procedure. Thank you.

ZAK MUSCOVITCH: Thank you, Phil. That's actually a good segue to take step back and for this subgroup to determine, based upon the public comments—the public comments that we've received and we've read—is there a significant new fact, significant perspective, a new solution that has been proposed that has not been considered by the working group in the past, such that we should recommend that the working group reconsider?

So, in other words, we may not find a solution here under one perspective of the parameter of the subgroup, but we nearly identify it and then put it to the working group and say, "Listen, there were a lot of comments about this and that with this solution and that solution, and therefore we suggest to the working group we consider it." Or alternatively, this subgroup might say, "Listen, there were some solutions proposed. There is no widespread agreement. Or these were already considered by the working group. So we just recommend that the working group that it proceed with this recommendation as is."

So, what my question to the subgroup members is—and I do note that we’re at ten past the hour, with 20 minutes remaining, so it may be somewhat challenging to get two people into this if we have to, but my question to the subgroup is what is your perspective on the nature, character of the public comments that we received? Do they rise to the level that we should revisit—recommend that the working group revisit the recommendation or do they not rise to that level?

I’m seeing a comment here. Let’s go with Kathy. Her hand is up. And I’ll take that opportunity to read the comments as well. Thank you, Kathy.

KATHY KLEIMAN:

I think we’re seeing a number of comments in a personal capacity, and particularly from groups that represent registrants largely, that support the recommendation as written probably wouldn’t mind supporting it with the modifications that put it back to the original.

But when you look at ALAC’s in particular, you see translation of the complaint into predominant language of the respondent is consistent with ALAC principles. So, I think we’re seeing strong support for the way it is as written and going to the roles of the predominant language of the respondent could raise unanticipated consequences. Certainly, it would seem to change procedures as they were written—or as they’ve been implemented. Thanks, Zak.

ZAK MUSCOVITCH:

Okay. Thanks, Kathy. Just to make sure that I’m clear, in case anyone else wants some clarification, your characterization of the

public comments was that they're such that the original recommendation should not be interfered with, they do not rise to the level of revisiting them?

KATHY KLEIMAN: No, what I'm saying is that a number of the groups that represent registrants are very happy to go forward with the recommendation as written.

ZAK MUSCOVITCH: Okay. So, the public comments submitted by registrants, they indicate they're happy with the recommendation as written?

KATHY KLEIMAN: Right. Right. So, what we're looking at [inaudible] that section.

ZAK MUSCOVITCH: Do you have a characterize for non-registrant's perspectives based upon your review of the comments?

KATHY KLEIMAN: I will leave that to others. Thanks.

ZAK MUSCOVITCH: Okay. [inaudible], Kathy. And luckily we have someone in the queue or in this group, I'm sure. But let's go to Brian Beckham first. His hand is up.

BRIAN BECKHAM:

Hi, thanks. The way I see this, there's actually two parts to this question. One is—and I'm looking on my screen at the comments from [inaudible] University and CSG, I appreciate these are summaries. But it says, "This is a very important recommendation as the registrant must be sent notice by all of these means in the hopes that one reaches them."

So, I think this speaks to the method of notification and everyone recalls that there was an issue raised that one of the providers wasn't actually sending, according to the required methodology.

So that I suspect is terribly uncontroversial. People would expect that the notification is sent according to all the means that are required by the rules.

Then, to the second part, I think there, Zak, to your question, I do see that there seems to be a substantial number of comments that point towards use of the language of the registration agreement. So it appears to me that that reaches some kind of a threshold to where that puts the question to us whether that second part of the recommendation should stand as is or whether we ought to look at taking on board or somehow accommodating those suggestions about the language about the registration agreement versus the predominant language. Thank you.

ZAK MUSCOVITCH:

Thank you. Before I let you go, do you have any sense, based upon your review of the public comments, about whether that holds true also for the means of providing notification in terms of

via fax, email, postal, etc.? Did you observe that that rose to the level of necessitating the referral to the working group for review of this recommendation or was that perspective just limited to the—

BRIAN BECKHAM: Can you hear me?

ZAK MUSCOVITCH: Yeah.

BRIAN BECKHAM: So, I think it was more towards the language. In terms of the methods, of course there were some people who say don't bother with post, don't bother with fax, etc., but that seemed a bit more scattered, if you will, whereas with the respect to the language there seemed to be let's say a more cohesive group of comments suggesting a change.

ZAK MUSCOVITCH: Okay, thank you. So, we're rapidly running out of time on these two [easy] recommendations, of course. So, we'll see if we can wrap this one up. I see Susan's hand is up. We'll get to you in just one second, Susan.

Basically, the issue that we're going to try to decide before 15 minutes are up is whether this recommendation is going to proceed as is or whether we're going to refer it to the working group for reexamination of perhaps the language issue, perhaps

the means of providing notice issue. Okay, Susan, please. And briefly as well. We'll all try to do brief comments so we can maybe get through this one today.

SUSAN PAYNE:

Thanks, Zak. I just wanted to circle back to the At-Large comment because Kathy referred to it. I think it raises its own problem because they have actually given support for the incorrect explanation of what paragraph 4.2 says. So they are supporting this notion of the language of the respondent but that isn't what 4.2 says, as we already discussed.

So, yes, they're supporting this recommendation as is, but actually they're supporting the wrong recommendation because that's not what 4.2 says.

I just wanted to say, I think if you look, there are a number of people who are saying, surely, a more easy-to-determine mechanism of working out what language to use is to align more clearly with the UDRP which is where we come to the language of the registration agreement. And indeed, Zak, yourself submitted an individual proposal along those lines which will get talked about some other time in some other group.

ZAK MUSCOVITCH:

Indeed, some [inaudible] awaits. Susan, what's your sense about whether the language piece of this at least has received such public comment that it should be revisited or was this an issue that the working group already deliberated and was still divided and that's why we ended up with this recommendation?

SUSAN PAYNE: I can't answer the second part of that, I'm afraid. I don't know. I don't think I was—

ZAK MUSCOVITCH: No, it's been a long time.

SUSAN PAYNE: I'm not sure I was in that particular subgroup, so I just can't recall. But it does seem to me like there's a whole bunch of people who are saying wouldn't it be better to go with the language of the registration agreement, which is more consistent.

ZAK MUSCOVITCH: So, you're saying that there's at least some consolidation of support for revisiting this proposal based upon the public comments. Okay. Kathy, I'm particularly looking for different perspectives on this. There are three hands up. Kathy, also please quickly. There are two more people after you and we only have 12 minutes left.

KATHY KLEIMAN: Sure. I do think we're getting stuck on something maybe we don't need to. I think there's an enormous amount of support this. If you look at this report with the minor change, you have three comments that want to change the language of the registration agreement, but then you have three comments that just want to

put it into the predominant language of the country or territory which you've already led us into agreement on.

So, if you put those support in with the other support, I think those seeking to change the registration agreement, which would be a big change, I think they're in the minority here. Thanks.

ZAK MUSCOVITCH: Okay. Philip, please.

PHIL CORWIN: Yeah. Phil for the record, personal capacity. As the IPC noted, the current requirement of 4.2 is that the notice of complaint shall be in English and translated by the provider into the predominant language used in the registrant's country or territory.

I think we have broad agreement in the subgroup that the language of the current recommendation needs to be changed to reflect the actual requirement in the rule in 4.2. So, I think we should be communicating that to the full working group that a clarifying change in language needs to be made.

Then there's a separate issue of should rule 4.2 be changed to something other than what it is now. I don't think we're going to be able to or even that it's proper for us in this subgroup to wrestle with that. I did raise in the chat a practical consideration. The registration agreement—and this can be brought up if there's discussion at the full working group level—is between the registrant and the registrar. The contact information is generally provided by the registry and I'm not sure that registries are being

advised by the registrar what language the original registration agreement was made in. So there may be a practical problem here, but that is not for us to solve at this level. It's to identify that we had a number of members in the community suggesting that change and leave it to the full working group whether they want to get into that. Thank you.

ZAK MUSCOVITCH:

Okay. Thank you, Phil. I do see that Cyntia's hand is up and we'll get to you in just one moment, Cyntia. But Phil has proposed a timely quasi resolution to this at 10 minutes left in this call. To paraphrase what I understand Phil to have said is there are some people that—we're all in general agreement to revise the recommendation to better comport or identically comport with the precise language of section 4.2. But beyond that, there are some people that have raised some suggestions that may have merit or may not have merit about the language of the notice, and some people who think there should be change, some who don't think there should be change. So, can we just merely note that to the working group and leave it at that or are we going to try to resolve this within the working group based upon the suggestions that are on the table?

Cyntia, I'm going to ask you to comment on that real quickly. In terms of your review on the approach here, do we note that there's some disagreement here and refer to the working group or do we make—identify to the working group that there has been significant perspectives and this is our new recommendation? I'm going to ask Cyntia to quickly comment about it in addition to what she intended to comment upon and then ask for any input on that

before we draw the call to a close. Cyntia? Double mute victim, Cyntia. Unstable connection perhaps. Go ahead.

CYNTIA KING:

In response to your question, I think that the job of this sub-committee is to review the comments and see if those any of those change or should be incorporated into the recommendation as it was written. And in this case, I think it's pretty clear that there are a lot of people who are suggesting that there be a consistent and not easily—more easily interpreted language than what we were presented with in the recommendation.

I think it's clear that a lot of the folks that commented were saying that we should go with the language of the registration agreement.

Now, some of the comments—for example, Cum Laude where Susan today spoke about the language not being exactly the way that it is in the rule or whatever. Cum Laude's comment, I believe—Susan, you can tell me if I'm wrong—was to support a consistent and reasonable definition such as language of the registration agreement. And I think a lot of the comments there do support that.

I also think that there are some amount of people that may have commented that are not fully versed in the URS and UDRP language—original language. They looked at the suggestion for recommendation as it was written by us and they commented on it without understanding that there is a separate process that uses the language of the registration agreement.

ZAK MUSCOVITCH: I'm with you. I understand what you're saying, Cyntia. What we have—

CYNTIA KING: So, I think that what we should do is I think that we should make a recommendation to the group and say that we recommend that it be changed, and then if someone wants to disagree, that's a discussion that we can have. But I think it's within our remit to make that recommendation to the group and say we believe it should be changed. Thank you.

ZAK MUSCOVITCH: Cyntia, I don't think that there are ... Let me put it this way. Is there an opposing view to this? Cyntia's proposal is that we think it should be changed and we refer to the working group to change it. And if there is consensus on that, that makes it perfect because we have six minutes left and we're done. But is there an opposing view? I believe that ... I heard even Kathy say, no, let's not open this up. Even Phil had some concerns as well. But [inaudible], Kathy?

KATHY KLEIMAN: Again, personal thought. I'm wishing we could have this discussion or URS recommendation 1, but Zak, you're doing a great job. I just don't see the support for this, Contracted Party House, predominant language use and registrant's country/territory which we've now agreed to. That's registries and registrars. Then, above the line, we've got lots and lots of registrant groups supporting it as is. I don't see the cross-

community support for this kind of change and I don't see the justification for it. In fact, Phil [inaudible] justification.

ZAK MUSCOVITCH:

Okay. Kathy, I'm going to ask you just to [inaudible] for a moment. We have five minutes left. This is directed to Cyntia and Susan, amongst other people. What is your assessment of ... We just heard Kathy's assessment. She believes that there may be significant support for revisions but she also sees significant support for the status quo remaining the same. Are we in a position to get consensus to refer this to the working group with the recommendation or will you be satisfied, and for the people who want to see changes to this, will you be satisfied with saying that there were significant voices in the subgroup that thought there should be changes but there was no widespread agreement on whether the changes should be made.

CYNTIA KING:

I understand what Kathy is saying, that she doesn't see this as being widespread support. But I think that we have two issues we're considering. We're considering exactly what the comments were when the folks commented and we're considering what makes sense. What is implementable? What can be implemented?

So, the language of the registrant's country and territory is very open to interpretation. If we say the language of the registration agreement, it's clear. There's a clear-cut line there and I think [inaudible].

ZAK MUSCOVITCH: That perspective has been made and made well by yourself and others. The question is: is it still enough for this subgroup to have consensus or agreement to adopt that as a recommendation to the working group?

CYNTIA KING: Yes, I think so. I mean, if everybody responded and said, hey, we want all URSs to be free, that would be great advice. We would love that everybody wants it to be free, but it's not implementable.

ZAK MUSCOVITCH: Okay, fair enough. We have three minutes left and I'm uncertain how we can tie this one off because we're hearing two different perspectives about what the subgroup should do. Does anyone have a solution about how to resolve this, kick this down the road, punt it or otherwise deal with it in one minute?

Okay. in the absence of such brilliant ideas, I'm going to put one forth and that's to conclude recommendation 3 by saying that there was significant ... We'll refer this to the working group and say there was significant voices expressed for changes about the changes to recommendation 3 beyond just the technical one that we all agreed on, but there was not widespread agreement either. So, leave it to the working group to decide whether to revisit it or not. That's the best that I can see that we can do with two minutes left. Does anyone have anything better than that?

From Phil, [inaudible] in the chat. Paul Tattersfield says, "Suggest a change from the working group, that the working group decides." Brian says, "I'd like to [inaudible] proponents of the predominant language how they propose to assess this. No other better solutions."

So, I'm afraid that's where we're going to have to end this today. We'll carry it out on the list perhaps, but I'm going to have to throw it back to staff to wrap this call up with under one minute left. Thank you.

JULIE HEDLUND:

Sorry, coming off mute. This is Julie Hedlund from staff. Thank you, all. Thank you very much for chairing today, both Paul and Zak, and for doing an excellent job. Thank you all for joining. The next meeting will be next week at the same time and we'll be sending out a summary document, an analysis document, for you all to look at once the co-chairs have seen it where we'll capture these deliberations today.

Thank you, again, for joining. It looks like we're at time, so we will adjourn this call. Thanks again. Bye-bye.

ZAK MUSCOVITCH:

Thanks very much. Bye-bye.

MICHELLE DESMYTER:

Thank you, everyone. Meeting adjourned.

[END OF TRANSCRIPTION]