

YEŞİM NAZLAR:

Good morning, good afternoon, and good evening to everyone. Welcome to the At-Large Consolidated Policy Working Group call taking place on Wednesday, 12th of May 2021 at 13:00 UTC.

We will not be doing a roll call due to the increased number of attendees, as well as for the sake of time. However, all attendees logged on the Zoom room and on the phone bridge will be recorded after the call.

We have received apologies from Bill Jouris, Yrjö Lansipuro, Cheryl Langdon-Orr, Christopher Wilkinson, Eduardo Diaz, and from Justine Chew.

From staff side we have Heidi Ullrich, Evin Erdoğdu, and myself, Yeşim Nazlar, present on today's call and I will also be doing call management.

And now we have Spanish and French interpretation. Our Spanish interpreters are Claudia and Veronica, and French interpreters are Claire and Jacques.

Before we get started, just a kind reminder to please state your names before speaking, not only for the transcription but also for the interpretation purposes as well, please.

One final reminder is for our real-time transcription service, as usual. Please do check the service from the link that I just shared. With this, I would like to leave the floor back over to you, Olivier. Thanks so much.

Note: The following is the output resulting from transcribing an audio file into a word/text document. Although the transcription is largely accurate, in some cases may be incomplete or inaccurate due to inaudible passages and grammatical corrections. It is posted as an aid to the original audio file, but should not be treated as an authoritative record.

OLIVIER CRÉPIN-LEBLOND: Thank you very much, Yeşim. I note somebody asked if I could turn the sound down if this sets to automatic microphone volume. So hopefully it will control my outbursts soon hopefully if it understands anything about what automatic means.

Welcome, everyone, to this Consolidated Policy Working Group call. This week's call is going to be packed with a lot of items but short items. So we might actually go through this in a rather faster way than we anticipated, but let's find out.

First we'll have our workgroup updates. The first one being about the Transfer Policy Review Policy Development Process. We expect the first reporting of our representatives on this working group, Steinar Grøtterød and Daniel Nanghaka. Then we'll have the Intergovernmental Organization Curative Rights Work Track, the IGO Work Track with Yrjö Lansipuro and Carlos Raul Gutierrez. Then we'll have our old friend, the Expedited PDP on the Temporary Specification for gTLD Registration Data with Hadia Elminiawi and Alan Greenberg. Then we'll go through our policy comment updates, the main one being the GNSO Review of All Rights Protection Mechanisms in All gTLDs Policy Development Process Phase 1 Final Recommendation for ICANN Board consideration. I'm glad I managed to say that in one breath.

That's the plan for today's call. Are there any amendments, additions, any changes to the agenda? I understand Alan needs to leave on the hour, so okay. We should be able to reach the Expedited PDP by then. I'm not seeing any hands up at the moment so let's proceed forward. Let's have the next slide on our agenda.

That's of course the action items of last week. There's one remaining and that was one from Laurin Weissinger volunteering to contribute on the drafting team for the ALAC's statement on an upcoming DAAR, which, for those of you that don't know, it's a Domain Abuse Activity Reporting that's coming up soon. Everything else has been completed. Any comments, questions on any of those action items? None? Okay. Thank you.

Let's then move forward. Let's go over to our workgroup updates starting with the Transfer Policy Review PDP with Steinar Grøtterød and Daniel Nanghaka. It does say TBD so—

DANIEL NANGHAKA:

Thank you very much, Olivier. Just a quick one is that we have indeed held our first meeting, but on Friday the 14th we shall be holding our first meeting whereby we have at least some/few actions that we shall be discussing from that. During our meeting, obviously we shall be having introductions. Also, if possible, maybe vote for vice chair but according to the welcome induction communication that we may not need a vice chair for the moment. But there also we shall be discussing how we're going to be operating all the different working methods for the group. From there, we shall begin at least a kind of induction before we really dive in to the [inaudible].

But then from that, we shall be able to at least give consistent updates on what we shall be discussing as far as the PDP is concerned. But obviously, what we shall be going through will be the different forms of authorizations, the Auth-Codes, and the various requirements as we

shall be reviewing the previous ATRT report that was published. That is at least a brief but let's keep our ears to the ground as we'll be discussing at least officially on Friday. Thank you. Probably Steinar is on the call. If you'd like to ask something, you're welcome to add something. Otherwise, I'll hand the floor back to you, Olivier.

OLIVIER CRÉPIN-LEBLOND: Thank you very much for this, Daniel. I see a hand up from Steinar Grøtterød. So, Steinar, you have the floor.

STEINAR GRØTTERØD: Hi. As Daniel said, there will be this call upcoming Friday. I'm familiar with the transfer problematics but I'm not familiar with the PDP work. Based on the previous meeting, we had some sort of regulation that we should advocate what is At-Large point of view in the different topics here. How do we do that within this group? How do we create a workspace, add questions or comments and so on? Maybe this is not the time to discuss this, but I need some feedback on how we should do that internally in our call.

OLIVIER CRÉPIN-LEBLOND: Thank you very much, Steinar. We've actually had some ongoing discussions as to how to do analysis report this new type of PDP. You'll notice in the current agenda, the link goes to the actual PDP itself. But there are some things that are cooking to be able to support the people that are in the PDP better. Daniel has put his hand up and then we'll have Evin Erdoğdu. Daniel Nanghaka?

DANIEL NANGHAKA: Thank you very much. Just to add on that. I appreciate the fact that we shall be working closely together with Steiner on this PDP. Where the points call for deliberation, we shall be getting back to the community, that is the ALAC community, whereby we shall be seeking input so that we can come up with a very clear position. That is the ALAC position when it comes to deliberations, especially when it comes to driving consensus. Where we shall not be sure of ALAC's position, definitely we shall be coming back also reporting to this working group, seeking discussions about how we are going to be moving forward.

The one thing that the PDP 3.0 brings in is the ability to be able to seek consultations and deliberations to gain consensus. I'm happy that at least the Consensus Playbook was shared and we have at least gone through the playbook, which gives us at least an understanding of how we're going to be going into the deliberation of the review process. With that, I'm happy that at least we have also support that is coming in from ALAC towards this working group and the team. I appreciate it. Thank you.

OLIVIER CRÉPIN-LEBLOND: Thank you, Daniel. Next is Evin Erdoğdu.

EVIN ERDOĞDU: Thank you, Olivier. I just wanted to note also there was a comment in the chat as well about relevant background documents. It was shared

with all the ALAC members, alternates, and observers to the Transfer Policy Review PDP their workspace.

But to Steiner's comment, I'm happy to make a At-Large workspace, specifically for gathering At-Large comments as well as CPWG feedback for this Transfer PDP. What's been done in the past is there have been workspaces created for individual ALAC statements or ALAC advice, but there's also been a workspace created for the Subsequent Procedures work as well that was spearheaded by Justine. So we can do something similar or we could experiment with the different formats, and I'm happy to follow up with you all on what is the most accessible and appropriate for the community. Thanks.

OLIVIER CRÉPIN-LEBLOND:

Thanks very much, Evin. Yes, I believe a workspace will be created. In fact, it probably would be good practice to then create a workspace for all of the workgroups that we're now following up on our discussions that we had. If we just have the workspaces on the Policy Development pages, they do get a little bit lost in the floods of policy work that we have.

I am looking at the queue at the moment. No other hands up. I was going to call upon Jonathan Zuck as he is the vice president for Policy for the ALAC. How is the ALAC going to integrate with this? I don't know whether Jonathan is able to speak briefly on that.

JONATHAN ZUCK: Thanks, Olivier. Everyone is trying to sort this out but luckily this representational model is sort of what we were trying to aspire to across the board. So we're a little bit better prepared in that respect. So what we're hoping is that when the initial questions come out for the PDP that we'll be able to take those here into the CPWG and come up with the At-Large answers to those questions, sort of like where we would like to see things going. Then we'll operate on the assumption that the ALAC will be supportive of those positions but in parallel, at the next meeting of the ALAC after that CPWG meeting that they'll review them again to be sure. But then hopefully what we can do is send our volunteers in the workgroup with our outcome preferences and priorities and then provide support from there via the CPWG.

OLIVIER CRÉPIN-LEBLOND: Thanks for this, Jonathan. I think that in having the ALACs on pages were not effectively copying the PDP page itself that it certainly will help having some background and things as they relate to end users, maybe a presentation of the events as they relate to end users. Sometimes our priorities are different.

JONATHAN ZUCK: Or a subset, if nothing else, right?

OLIVIER CRÉPIN-LEBLOND: Or a subset, yes. Thanks, Jonathan. Alan Greenberg?

ALAN GREENBERG:

Thank you very much. This came up with the discussion we had with Melissa the other day but I'll mention it again here. Although there may well be some expertise and knowledge of the subject within this group within the ALAC within At-Large in general, we're going to be looking to the members and the alternates to be the prime source of briefings to the rest of the community and most likely recommendations on what they believe the position should be. Because there's no way the rest of the community is going to dive into the background documents and the subject matter with the same level of intensity as those who are actually involved or expected to as those who are actually involved in the PDP who pretty well have no choice but to embed themselves in the background and the details. So although we say you're supposed to be following the guidance of the group as a general, you're also the ones who are going to be, if not setting, certainly recommending a lot of what those positions are. Thank you.

OLIVIER CRÉPIN-LEBLOND:

Thanks very much for this, Alan. Any other questions? Daniel, you're now set, I guess, to get into action with the next meeting on Friday the 14th?

DANIEL NANGHAKA:

Absolutely, we're all set, and we have at least gone through the initial documentation. We have at least consented to reading through the documents because after reading through the documents, we have to sign at least a consent that we have gone through the documentations. And at least this is going to give a basis for the first meeting that we shall

be holding. Definitely we shall be getting back with updates to the working group, to the community, and through the CPWG. Thank you.

OLIVIER CRÉPIN-LEBLOND: Thanks very much for this, Daniel. That means we're looking forward to your first reporting next week. Now we can move to the next item, agenda item three, and that's the Intergovernmental Organization Curative Rights. That's another one of these long-term discussions that have taken place. For this we have Yrjö Lansipuro and Carlos Raul Gutierrez in this track that has just started as well. I'm not sure who wishes to speak.

CARLOS RAUL GUTIERREZ: I defer to Yrjö. If not, I can speak.

OLIVIER CRÉPIN-LEBLOND: Carlos, I believe that Yrjö is not on the call. I was scoping through. It doesn't look as though he is there. So it's up to you today.

CARLOS RAUL GUTIERREZ: Okay. Very short. The group has gotten to a common agreement to go back to the GNSO Council and test the idea that has been agreed upon. The idea is a small tweak—we're using that word, a small tweak—in the UDRP. It took quite some time to get heads together but we have this agreement and it's to offer the IGOs factual standing—sorry, I'm not a lawyer—in this kind of dispute so the UDRP can be used and the IGOs won't be injured or will trust the system that their rights will be

protected. As I said, this is a highly technical UDRP discussion, mainly managed by lawyers. The chair has been very diplomatic and successful, I would say.

Next week in the GNSO Council we have a small slot. I don't know exactly if it's going to be the chair or the staff supporting us who is going to present it to the Council. It's not sending the issue back to the Council, it's just to get some feedback that they don't get that big surprise when we finish our work. Other than that, we should be fine and we should be able to present a draft or proposal by August as planned.

I see that there was a discussion this afternoon about the resources dedicated to this work track and if it should get a special slot in the ALAC activities. It's really a narrow issue, very legalistic, and it falls under the Review of the Rights Protection Mechanisms. So I would say it doesn't deserve a special slot but we have to keep it in mind as part of the ongoing Review of the Rights Protection Mechanisms [inaudible] the WHOIS review, I think. Thank you very much.

OLIVIER CRÉPIN-LEBLOND:

Thank you very much for this update, Carlos. Yes, for the record, Yrjö actually has submitted his apologies for today. So thanks for bringing us up to date with what's happening in this group. Are there any comments or questions from anyone regarding the IGO Work Track? I gather that just by its very nature, intergovernmental organization, one is looking at some things that doesn't affect end users directly but might affect them

indirectly. There's always something that affects something else in ICANN. I'm not seeing any hands up. So thanks for this update.

Now we can go to our friends, Hadia Elminiawi and Alan Greenberg, who have spent quite some time on this expedited, which only has expedited as an E, PDP on the Temporary Specification for gTLD Registration Data. For this, Alan Greenberg, you're eager to proceed and let us know what's going on there. He might do this better by unmuting himself as well.

ALAN GREENBERG: You mean muting myself doesn't really help. Okay.

OLIVIER CRÉPIN-LEBLOND: He doesn't know.

ALAN GREENBERG: All right. Thank you. Not an awful lot to report, unfortunately. This section of the EPDP is on two issues: legal/natural person differentiation and preferred ways or better ways of contacting the registrant. Currently, most registrars use a web form. The one used by the largest registrar in the world basically says, "You can tick off one of three boxes. You're violating my intellectual property rights. You're sending spam and distributing malware or I'm doing research." That's it. You cannot put any content, you cannot put any further details, you can't put any attachments. The form is pretty well useless for almost any purpose and you don't know whether it got delivered or not. Even if the registrar knows it didn't get delivered, they don't tell you it didn't get delivered.

Those are the two areas of discussion in the EPDP at this point. We are making virtually no progress. There is virtually no chance we are going to come up with a consensus policy that requires legal/natural differentiation even for new registrations, never mind old ones. At this point, we have focused on trying to at least make sure there's a field in the RDDS, in the WHOIS record that says whether it's legal/natural even if it's not required to be filled in, which is essentially future-proof since it says at a time when they're likely to have to differentiate because European legislation is likely to require that differentiation, that there'll at least be a place to put it.

I thought we were making headway and got agreement on that because it's virtually a no-cost issue to registrars. They have to do almost nothing to do it and nothing operationally if this field exists but they don't have to use it. And at the last meeting yesterday, we got significant pushback on that. The chances of addressing the e-mail things we'll be talking about that more on Thursday. Again, I don't put very high hopes, so we are where we are. We will likely come out with guidance which is non-binding and no way of even tracking whether the guidance is being used or not in terms of legal/natural differentiation. I don't think we're going to get basically anything on the e-mail side.

So we'll see where it goes. I'm still pushing for that field in the RDDS, which, as I said, it's a low-cost giveaway by the registrars to at least toss us a bone. But at this point, it's not clear whether we'll get that or not and we only have another couple of weeks in which to finalize the interim report.

OLIVIER CRÉPIN-LEBLOND: Thanks very much for this, Alan. I note that both Holly and Hadia have their hands up. Should we first get your colleague Hadia to speak and then have Holly? It's really up to you. Okay. I'll then ask Hadia to take the floor next and then Holly afterwards. Hadia Elminiawi?

HADIA ELMINIAWI: Thank you, Olivier. As Alan said, we are not progressing much. And as he said, we are trying to push for an RDDS field. However, we are also facing opposition in relation to that, although it does not oppose the contracted parties. They're in all cases doing changes to the RDDS because of Phase 1 recommendations. However, it seems that we could get consensus on requiring the contracted parties to have the capability of differentiation without mandating them to the means of doing that, like they will be required to without telling them how to do that. The problem with this if we don't actually end up with an RDDS field that the consistency of the data, that won't be feasible. We think that this is an important thing that they all implemented in the same way so that going forward the data is consistent and be transferred. Thank you.

OLIVIER CRÉPIN-LEBLOND: Thanks so much, Hadia. Next is Holly Raiche. Holly has put her hand down.

HOLLY RAICHE: Sorry, I didn't. I put my hand down so that I wouldn't be called again. Hadia and Alan, I don't understand the recalcitrance that for something

that seems so basically not difficult, not challenging, very easy to do. Is there a reason that you can explain? Thank you.

ALAN GREENBERG: To be blunt, nothing that will say in polite company.

HOLLY RAICHE: Okay.

ALAN GREENBERG: I thought it was an easy give that doesn't cost them anything and I've gotten private agreement from some registrars on that. But in public, there's reason after reason which don't make a lot of sense to me. At least don't make significant sense to me. Maybe Hadia has better insight than I do. I'm over. I'm done in more ways than one.

OLIVIER CRÉPIN-LEBLOND: Thanks, Alan. Hadia has actually dropped. No, she's still there but her hand has dropped. She did have a few problems with the line earlier. So I don't know. It looks as though we've lost her now. So yes, what a grim situation here.

HADIA ELMINIAWI: I'm back.

OLIVIER CRÉPIN-LEBLOND: Oh, you're back? Hadia, go ahead.

YEŞİM NAZLAR: Olivier and Hadia, if I may please interrupt. Hadia, we're not able to hear you properly as your line is cutting off. Would you like us to dial out to you so maybe we can get a better audio? And if you're speaking, I don't hear you.

OLIVIER CRÉPIN-LEBLOND: Yeşim, I think that could be your answer.

YEŞİM NAZLAR: Okay. We'll try to dial out to her right now.

OLIVIER CRÉPIN-LEBLOND: Thank you. So I'll ramble on for a couple of minutes until we get Hadia back. I had a question with regards to the pushback from contracted parties. Is that a general pushback from everyone or are we dealing with specific contracted parties that have always been completely against anything to do with providing a different station? Because already in Phase 1, there were some recalcitrance, this is just met with a blunt "No, we're not going to do anything." In which case, what happens after that then? Does it just get sent back to the GNSO Council? And then the GNSO Council sends it back to the Board and the Board sends it back to the GNSO Council, and it goes yo-yo back and forth? How does one get out of this?

ALAN GREENBERG:

The Board can always send things back to the Council and can always initiate a new PDP and whatever. I can't see that actually happening in this case. The answer is we are getting very strong pushback from the people who are sitting on the EPDP. Does that mean everyone or does that mean they're particularly vehement that they don't want to give anything? I'm not going to comment on that. That becomes a personal and personality issue. Basically, we are hearing from everyone at the table on the registrar side that they don't want to do this for a whole bunch of reasons, none of them in my mind particularly valid. We are going to be making a large number of changes in the RDDS fields because of Phase 1 implementation when and if that ever happens or when it happens. And as a result, the concept of making a change should not be onerous to registrars. They're going to have to figure out how to do it even if they don't remember. We are saying the field is optional to use so they are not under any obligation to use it. More than that, I really can't say.

I don't think the reasons are substantive but they obviously do. Maybe that will change in the next meeting or so. ICANN staff drafted a new version of the report which included this as something. They're proposing wording that we said we were agreeing to it and there was significant pushback yesterday when that was discussed. The next step is to come up with an interim report which will say we're not agreeing to it and I think we're going to push strongly to at least say it was proposed. Then it's up to public comment to perhaps sway the outcomes, but we'll see. As I said, the report has to be finalized before the end of May and we're not halfway through May so we have another four meetings or so. And staff is working hard to try to get wording for the report. I think it's

going to come down to what the public comment says and if there's any real pushback at that point. I don't have much more insights than that.

OLIVIER CRÉPIN-LEBLOND: Thanks for this, Alan. I see Hadia Elminiawi has put her hand up. At the same time, I'm noticing that Adigo is having problems reaching Hadia but perhaps now they have succeeded. Hadia Elminiawi?

HADIA ELMINIAWI: Thank you. Actually, Adigo did not succeed to reach me so I hope you can hear me. I think also what's being said now that, "Let's go ahead with only a guidance," and in the future, given the NIS2 and the new requirements that the contracted parties [will need to abide,] then we could have later another PDP that would exactly say what the contracted parties need to do. I think two things here. One, the contracted parties are realizing that in the future, they will need to do something but they do not want to do that now. However, we could, as I mentioned before, reach consensus on requiring contracted parties to have the capability to differentiate without telling them how to do that. Thank you.

OLIVIER CRÉPIN-LEBLOND: Thank you, Hadia. Next is Alan Greenberg.

ALAN GREENBERG: Thank you. That is what's being said right now that, well, we can always have another EPDP when the situation changes. I don't believe that's going to happen. The NIS2 is almost surely to come in. And the

indications right now are that it may be even stronger than it looked like it was before and will require differentiation almost certainly for European registrars or those serving the European community. The problem with that is that doesn't require any consensus policy in ICANN's part.

The policy we have right now or the one we will have once it's implemented, says they may differentiate. Therefore, if the law is they must, then those who are subject to the law must. We don't need to change our policy to do that. But that also means that since there is no policy, registrars who are not subject to GDPR will not have to follow it. We're looking as if the whole world is GDPR or something equivalent. That's not the case. The downside of not having policy is that it's only the law that is enforced and those who either think they can avoid the law or aren't subject to it don't have to do it. That's likely the way it will stand.

The chair is pushing to say there will be other policy if things like NIS come and go. But a number of the other members, myself included, point out that there is no policy needed if NIS2 comes in. The Temporary Spec and the EPDP were necessary because our policies conflicted with the new legislation. That won't be the case with NIS2. I don't hold a lot of hope for future PDP. There's not going to be a lot of desire to go into this again in the future. Thank you.

OLIVIER CRÉPIN-LEBLOND: Thanks very much, Alan. I am not seeing any further hands. No doubt we will be discussing this again in the future as this is an ongoing story.

So we look forward to your and Hadia's updates next week after a few more meetings. Hopefully, with a "kumbaya" moment at some point, who knows, where suddenly things start aligning themselves again and everyone's happy.

But in the meantime, let's move on and let's go over to the policy comment update with Jonathan Zuck and Evin Erdoğdu. Of course, they're going to take us through the other policy works taking place. Jonathan and Evin?

EVIN ERDOĞDU:

Thank you so much, Olivier. I'll just run through this briefly. Since last week, there are no recently ratified statements by the ALAC. But as everyone is well aware, the ALAC advice regarding Subsequent Procedures has been submitted and those translations were also posted and circulated by the chairs of the different RALOs in different regional languages.

There are several upcoming public comment proceedings. You can see on the agenda, the different tabs, several still scheduled to be opened in May and a couple in June. The ICANN71 Virtual Policy Forum will be taking place in June as well. As there are currently no public comments for decision by the group but there are a couple statements in progress, Hadia and Alan had just walked us through our recent EPDP updates and there may be the potential ALAC advice to the ICANN Board regarding the topic. But we have a draft ALAC statement from Greg Shatan regarding the GNSO RPM's ICANN public comment. I'll turn it back over

to Jonathan in case he has any comments, and Greg to discuss the statement. Thank you.

JONATHAN ZUCK: Thanks, Evin. Let's go right to Greg if he's, I think, available.

YEŞİM NAZLAR: Jonathan, I don't see Greg on the call yet.

JONATHAN ZUCK: Okay. I saw an e-mail from him saying he getting on half past. So that's why I was hoping he was on. I don't know if folks have had a chance to read this draft or have comments on it. But I guess maybe we can come back to this when Greg joins the call. I think it probably makes sense to move on, Olivier.

OLIVIER CRÉPIN-LEBLOND: Thank you very much, Jonathan. I hope that I can be heard now. I've switched over to a phone. Is there anything else that we can do on the policy discussions? Because this is really the last agenda item. Then we've got Any Other Business after this. The concern, I guess, is that we really should be focusing on the statement on the GNSO Review of the Rights Protection Mechanisms, as this is the last week before the deadline. Would you be able, in the absence of Greg, to sort of just shift through the statement that's there? Would that be okay? So people are alerted to it and we can basically let everyone read it. And then next week, it's going to be ratified.

JONATHAN ZUCK: That's right, Olivier. Evin, if you can post a link to it in the chat since we can't click on the agenda in the Zoom window. Then maybe we can let people just read it themselves rather than having these scroll through the screen. I think that'll be more efficient. So if you're able to post some sort of a preview link that people can bring it up themselves, I think that would be ideal.

JUDITH HELLERSTEIN: Evin has done that.

EVIN ERDOĞDU: Thanks, Jonathan. The link to the workspace as well as the PDF of the statement itself are in the chat.

JONATHAN ZUCK: Great. Thanks. I hadn't scrolled all the way down. I apologize. So why don't folks take a look while we're waiting for Greg? I see that Evin reached out to Greg via Skype or e-mail or something. Let's give him a couple of minutes to see if he gets on and meanwhile we can just take a look at this and folks can see if they have any comments on it. So now is when we really need our hold music.

OLIVIER CRÉPIN-LEBLOND: We should have some kind of a background thing.

JUDITH HELLERSTEIN: While not on this exact topic, the North American Stakeholder Engagement team, we've been meeting and there are lots of public comments in the next week or two. That's an update on that.

OLIVIER CRÉPIN-LEBLOND: Thanks for this, Judith.

JONATHAN ZUCK: I guess I can also give it—go ahead.

YEŞİM NAZLAR: Sorry. Greg is just joining us right now on Zoom. We're waiting for him to connect his microphone, actually. Hi, Greg. Welcome.

GREG SHATAN: Hi. Sorry, my previous call ran over.

JONATHAN ZUCK: Thanks, Greg. While you're up on the agenda, how would you like to lead a conversation on this?

GREG SHATAN: While we have the draft in front of us, just walk us through somewhat quickly. What we have here, this, obviously, about the final report of the RPMs Working Group. We did comment on the preliminary report about a year ago and I was able to extract what we put into the tool. Certainly, I use that as inspiration. So I'd say roughly half or two thirds of what's

here is really a reiteration of our comments from the preliminary report and the remainder are things that change between the preliminary and the final.

JONATHAN ZUCK: Can you draw attention to those changes?

GREG SHATAN: I will do so.

JONATHAN ZUCK: Thanks.

GREG SHATAN: Before we get to the individual recommendations, I would draw your attention to the third paragraph, which is really just without saying we may not have a dog in this fight between complainants and respondents but we do care about how ICANN policies work and the fact that they need to be inclusive and transparent and accountable, provide data and support metrical analysis, and support the use of multiple languages, and be more intelligible to the computing public. That's the primary reason to comments here and not because we're supporting trademark owners or we're supporting respondents or any of that sort of stuff. I think it's important. I'm more than open to comment on this based on other language that we may have that expresses kind of our core principles about how we believe that ICANN should treat policies and procedures.

So if we could scroll down through the recommendations here. Recommendations 1 and 2. Recommendation 1 is a carryover from the preliminary.

Recommendation 2, I think, reflects the history of the provision. Once the respondent's identity is revealed by the registry, will it be published in the final decision as it normally is, or should there be some discretion to redact it? I think that our general support for personal privacy indicates that we should support it. But, again, for transparency and accountability purposes, we don't want that just to be done without some basis. That's the reason for the answer given the way it is.

Recommendation 3 is a carryover and so is Recommendation 4, and both of these go to language issues. Again, obviously, important as we represent teachers of every language.

Number 6 is a new point. Here we may actually have some daylight between our position and that of both providers and brand owners. But I think, again, for transparency purposes, the more knowledge there is about who the examiners, the panelists are, the better.

Same thing with 7, this is also a new requirement. I think, again, transparency, fairness, ethics all dictate a support of this, of having conflict of interest policy. Conflicts of interest are dealt in the rules and procedures but the questions whether the provider has a policy itself about how to implement is kind of sketchy concepts. So it seems fair. If we could scroll to the next page.

Okay. Recommendation 8 is a carryover from the preliminary report, plus metrics for Jonathan and Olivier, concerns about evidence and metrics.

Number 9 is also a carryover. And again, goes to support access and transparency issues.

Section 10 is a variation on what was in the preliminary report. But again, I think this is of access and also leveling the financial playing field for respondents who might not have deep pockets even to hire counsel for this limited process.

Section 11 is really just the process improvement.

12, I skipped because it was too much inside baseball, which itself is probably traced, it's too much inside.

Section 13, this is a carryover from the preliminary report. I think that I'll pause here and see if anybody has any questions. I'm not watching the queue, which I probably should do. But I don't have any—

JONATHAN ZUCK:

Does anyone have any questions? I don't see any hands up so far. Marita Moll, please go ahead.

MARITA MOLL:

Okay. Just a minute while I find my spot there. I think it was Recommendation 10. Yes. Greg, I think that's great to ask for financial assistance. But I'm wondering those who may not be able to afford to

retain legal counsel, how might that be determined? Or do we need to care about that?

GREG SHATAN: This is actually not about financial assistance. This is just about informational assistance. In other words, providing pre-printed guidance to help someone who is approaching this without counsel, to have a sense of how they need to respond appropriately.

MARITA MOLL: Okay. I see that it's not financial assistance. Okay, great. Thank you.

JONATHAN ZUCK: It takes the place of legal assistance.

GREG SHATAN: Exactly. It's providing information that will allow somebody to deal with this per se as opposed to saying, "I got to get me a lawyer."

MARITA MOLL: All right. Sounds good. Thank you.

GREG SHATAN: I'm thinking against people hiring lawyers. So, if we can go down to the TMCH, Trademark Clearinghouse Recommendations. These actually grew. There was only a single recommendation in the preliminary report so most of this is new in a sense.

The first is something that was discussed at great length and where there was broad agreement in the group, although I will note that there were a few people who felt that geographical indications, even if they are not protected by trademark law, and sometimes they are, should still be allowed in the Trademark Clearinghouse. By its very name, the Trademark Clearinghouse is supposed to be limited to trademark so I think while we're there, it's certainly support within At-Large for some protection of geographical indication so that nobody outside of Greece involve feta—cheese feta. I have to find another name for it. That's something that has to be dealt with in its own unique way and not just make it into a pretend trademark. That is the point here.

This also clarifies, though, as the Trademark Clearinghouse provider can offer up ancillary databases for other uses. So if there is, for instance, a new top level domain that wants to honor geographic indications, they can use the services of the Trademark Clearinghouse provider to set up the necessary mechanics to do so.

So this is not a prohibition against protecting geographical indications, it's just a prohibition about mixing them up with trademarks or they're not in fact trademarks. I think it kind of strikes a balance between the concerns of different parties and really to some extent, it fixes what seems to have been a mistake, although I think the Clearinghouse provider will not admit that.

Number 2 really is just acknowledging the status quo, it's going to continue on other things.

Except for number 3, it's again more educational materials and the like. I think, again, we always support more information and knowledge and capacity improvement and the like. We'll support that as well.

Number 4 is not something we care about.

So going into the Sunrise, Recommendation 1 is new but it was discussed as a question in the preliminary report. I think we're generally in support of this. This is an issue where concern was that some registries were essentially using exorbitant pricing or other methods to basically disenfranchise brand owners that would otherwise take advantage of the early opportunity to register under Sunrise for their registered trademarks.

JONATHAN ZUCK:

Discriminatory pricing and things as well, right?

GREG SHATAN:

Yes, right. Exactly. Discriminatory pricing, the same exact string differently for different potential registrants. Basically, if you're the brand owner, you pay a jillion dollars. And if you're not the brand owner, you get it for five cents. All of that was concerning. So I think, again, try to take a middle ground here, supporting the general theme but also cautioning against attempts to directly regulate registry pricing, which probably the picket fence as well. Again, I think it's in part to be fair to both sides, if you will. I wanted to have a little bit of balance in our response.

Next one is status quo, and then not of interest, and then status quo. And then that brings us to number 5, which is more status quo. And so is 6 and 7.

Then 8 is just to clarify that—and if anybody thinks they’re going to use this—issues that come up with trademarks, whether it’s trademarks that are used in Sunrise are valid as trademark, that really is something that’s determined by the Trademark Clearinghouse, and so you should go there and not look at the Sunrise issue, which again is really just a reflection of what was supposed to happen in the first place except people got confused.

Then trademark claims. Now this has to do with the notice that appears if you try to register a string that is protected by a trademark that’s registered in the Clearinghouse. It just would support the idea that any top level domain that doesn’t in fact take third party registrations doesn’t have to have a mandatory claims period.

Number 2, again, is basically language support. Again, something we would generally support. Number 3 and 4 is status quo. Number 5 is technical or administrative point.

And the last point, which is one that occupied a lot of time in the group, is that we support making the trademark claims notice more comprehensible. Something that’s less scary. I didn’t want to get into that point per se. But again, I think that’s something I had broad support within the group. It’s good for us protecting kind of the ordinary person who gets one of these things sent to them. It should be understandable and not intimidating.

Then on the Trademark PDDRP, which is the ability to challenge registries that seems to be set up for the sole purpose of basically running a cybersquatting ring of some sort where there are multiple complaints against the same registry that they should be able to consolidate that. Given that the PDDRP requires some showing of pattern or practice, it makes good sense to be able to consolidate different complaints that are essentially about the same thing. So that's that. I see some stuff flying by in the chat.

JONATHAN ZUCK:

Hey, Greg, it's Jonathan. Just a quick question. Because you have 40 people here that kind of followed it. Are there recommendations here that on a community-wide basis were more controversial than others? Should we expect public comments from the NCSG, etc., that feel that some of these things are not bound?

GREG SHATAN:

Sure. I think that's a good question. I would say that if we scroll up just a little bit to number one here, not the trademark claims but above that in Sunrise, the one about pricing and manipulative use of things to avoid having a bona fide Sunrise. There might be some comments there in that regard, more concerns that would be difficult to administer without crossing over into picket fence issues and the like. I think that's one. And maybe the only one that I think has kind of a whiff of controversy. There are a couple of where we've bowed out and not actually responded but that might also be—where there might be some interesting responses from others that were staying above the fray.

JONATHAN ZUCK: Obviously, the discriminatory Sunrise protection is probably a pretty minority view, right? I mean, that's not something likely to be a foundation with very many legs.

GREG SHATAN: Right. I think in the grand scheme of things, it's more conversation about edge cases than it is about the actual problems with the recommendation.

JONATHAN ZUCK: Marita Moll has got her hand up again. Go ahead, Marita. You got to unmute, Marita.

GREG SHATAN: Apologies. I actually have to start another meeting where I'm the host.

MARITA MOLL: Sorry. Greg, I was just going to ask you for some clarification on that one that included geographical things, the final recommendation one, TMCH. Could you kind of quickly run through that again? I didn't quite catch what you were explaining.

GREG SHATAN: So the point here is that the Trademark Clearinghouse had admitted a number of geographical indications like feta or champagne that were

not in fact protected as trademarks. In some countries, the trademark law does protect geographical indications and they can be registered as trademarks, and there's no objection to that. But the issue is that where they're not in fact trademarks, they shouldn't be in the Trademark Clearinghouse. But at the same time, we are saying that if any registry wants to institute a geographical indication protections plan, the TMCH is allowed to support that.

MARITA MOLL: Okay.

JONATHAN ZUCK: The provider. The Trademark Clearinghouse provider can support it by creating like a separate database for those things.

GREG SHATAN: Yeah. Right. Since they now have the technology to support databases like this, they should be allowed to leverage it.

JONATHAN ZUCK: Olivier, do you have a question?

OLIVIER CRÉPIN-LEBLOND: Thank you very much, Jonathan. Not a question but a comment with regards to this Trademark Clearinghouse. I agree that the Trademark Clearinghouse is, strictly speaking, for trademarks and that there could be a way to have an additional field created for non-trademarks to be

there. If I understand correctly, an additional field or a different database that would be supported—

GREG SHATAN: A completely different database, definitely not an additional field. So the idea is that it's completely segregated and it does not support any of the things that the Trademark Clearinghouse supports like Sunrise and claims.

OLIVIER CRÉPIN-LEBLOND: But it could use the same engine, couldn't it?

JONATHAN ZUCK: So, Greg, the geographic delineations won't result in a default e-mail when registering them or something like that is what you're saying?

GREG SHATAN: Yeah.

JONATHAN ZUCK: That's interesting. I wonder what the point of it would be then.

OLIVIER CRÉPIN-LEBLOND: That was my gist, basically.

GREG SHATAN: [Inaudible] presenter. Is that the right person? Sorry.

JONATHAN ZUCK: He said he had another call. Yeah, Olivier, that's a good question. I assume that it would allow for things like the trademark claim, they wouldn't call it a trademark claim but—

GREG SHATAN: Sorry. I'm back. There's no prohibition against setting up additional Rights Protection Mechanisms but that's really outside the TMCH question. TMCH doesn't administer those in the first place. All they do is, in this case, it provides the database which would then serve other types of protection mechanisms.

JONATHAN ZUCK: So they could still result in something that was similar to the claims notification.

GREG SHATAN: But there has to be a private registry run RPM or would have to be a new consensus policy.

JONATHAN ZUCK: Right. Okay. Any other questions for Greg who's now spanning two meetings, Jean-Claude Van Damme style.

GREG SHATAN: I feel like Cheryl who's always be in two meetings.

JONATHAN ZUCK: Go ahead, Olivier.

OLIVIER CRÉPIN-LEBLOND: Thanks very much, Jonathan. I was under the impression that the database provider could support the additional field. Therefore be part of the Trademark Clearinghouse, when there was a search, you could append additional search items and things. A little bit like optional searches that you can have using the same engine. If it's something that is completely different and separate and doesn't automatically, therefore, tell people in advance not even a warning but just a note of saying this could be a name, champagne, for example, a geographical name of some sort, I really don't see the point of it to start with.

Second, I really wonder how that's going to fly with those countries that do not have a trademark system that is as broad as the U.S. where trademarks are much more restricted in scope and regarding its names. And often, geographical regions locally really have the same strength, if sometimes even stronger than the trademark itself. We are looking at potential litigation in the future. Maybe not we but certainly the industry is looking at some problems in the future. And who knows? I'm just saying something similar to the NIS but regarding geographical names in a regional basis. I find rather sad because—

GREG SHATAN: I agree with you. Olivier, I would say that the database is not where the battle needs to take place in the sense that if there's support for consensus, policy protecting geographical indications, that needs to be discussed in terms of the substantive protections such as Sunrise and claims, in this case.

OLIVIER CRÉPIN-LEBLOND: You and I know that the Trademark Clearinghouse is an olive branch to find the middle-of-the-road solution between trademark holders that wish to have very strong protection mechanisms for their trademarks and registrant that wish to be able to at least register some name and not end up with a domain name space that is absolutely filled with so-called trademarks and therefore—

GREG SHATAN: Right. This supports that. It says that the Trademark Clearinghouse cannot be used to support non-trademark matters where the TMCH is used as the database of record for trademark claims and Sunrise. This is better for registrants. If somebody sets up a policy that will protect geographical indications and that would happen outside of the Clearinghouse space, the Clearinghouse as a business can offer the service of using the database, its database software to create a new database to support that new separate right. But it does not in any way say that there's going to be a new right. Does that make sense, Olivier?

OLIVIER CRÉPIN-LEBLOND: Yeah, absolutely, Greg. I have no other comments to make on that. Que sera sera. We'll see what happens in the future. Eagerly waiting to see. Thanks.

GREG SHATAN: My prediction is that there will be discussions about geographical indications getting a unique or sui generis type of protection system and that it might parallel in some ways what we have here but it's not going to just get a seat on the trademark bus.

JONATHAN ZUCK: Since the beginning, there's been a lot of discussion of the Trademark Clearinghouse creating rights that didn't exist, providing broader trademark protection when something was only in a single jurisdiction and things like that. So this is a very good example of using technology to create a legal right that didn't exist in the first place.

GREG SHATAN: Yeah. This is reigning in the Trademark Clearinghouse and avoiding use that accidentally create more trademark claims and more Sunrise registrations that are, strictly speaking, for trademark holders.

JONATHAN ZUCK: It looks good, Greg. Anyone else have any other questions or comments? All right. That's excellent. Olivier, back to you. Thanks, Greg.

OLIVIER CRÉPIN-LEBLOND: Thank you very much, Jonathan.

GREG SHATAN: Thank you.

OLIVIER CRÉPIN-LEBLOND: And thank you, Greg.

GREG SHATAN: Thank you. I'll jump off now.

OLIVIER CRÉPIN-LEBLOND: Yeah. Thanks so much and thanks for doing a Cheryl on us, which is to be on more than one call at any one time. Well done.

GREG SHATAN: Yes. And they're both coming in to the same headset for me which is really, really distressing. I'll go off now. Bye all.

OLIVIER CRÉPIN-LEBLOND: Enjoy your single call.

GREG SHATAN: Thank you.

OLIVIER CRÉPIN-LEBLOND: We're finished now with the policy comments update. So that now takes us to the next agenda item and that's Any Other Business. Jonathan Zuck?

JONATHAN ZUCK: Olivier, I'll just mention briefly that over on the ICANN71 planning side, things have gone well for the At-Large. So there's three plenaries that are going to take place at ICANN71. One is a holdover from ICANN70 which is the regulatory topics on which Joanna is going to be our representative. Then two plenary suggestions, one from the GAC and one's from the At-Large that was penned by Marita, were merged together. It's going to be one of the plenaries as well. So we're looking forward to Marita being a part of that organizing committee.

Then finally, a proposal from Steiner about reputation block list providers was going to be merged and thereby watered down by a proposal from the Registrars on the registrant experience but it's now a stand-alone plenary. So the session is going to go forward much in the way that Steiner recommended it in the first place and we look forward to hearing back from Steiner as the Planning Committee for that to take place. So the At-Large is well represented in all three of the plenaries for ICANN71.

OLIVIER CRÉPIN-LEBLOND: Thank you for this, Jonathan. So that's a good update. It's only a few weeks away, isn't it, ICANN71? Was it six weeks, seven weeks?

JONATHAN ZUCK: That's right. It's coming up on us quickly. That's why there's such aggressive deadlines for session proposals and things like that. This particular meeting comes up faster than the other two.

OLIVIER CRÉPIN-LEBLOND: 14 to 17 of June 2021. A couple of hands up now. So next is Judith Hellerstein.

JUDITH HELLERSTEIN: I mentioned before that we're going to have a North American Stakeholder public comment out soon, coming out within the next week or two.

But also, I wanted to call your attention ICANN just released, they're having another planning call for the Work Stream 2 recommendations so please sign up on that. It's going to be on May 25. So you might be interested in looking for that and signing up on that. Then ICANN is now with the open date with the ITI, it's doing a subscription notification. So you can sign up for which topics you want to be notified that are new on the ICANN website. So that seems to be a new thing. I think those are additions to the ICANN site.

OLIVIER CRÉPIN-LEBLOND: Thank you very much for this, Judith. Next person in the queue is Steiner. No? Steinar Grøtterød was on there. He just disappeared.

Okay. I was going to just mention one more thing which is a call of the Cross-Community Working Group on Human Rights, which is going to

take place in a couple of hours. It's at 16:00 UTC. CCWG-HR at 16:00 UTC. I know that some people in our community are following this so it'll be interesting to hear from them next week about the discussions taking place there.

Just as a quick rundown on where we are, this group was quite active a few years ago and got some mention or some results in the ICANN Bylaws, and then it got stalled somehow by one thing, to have Human Rights Impact Assessment on every process that ICANN proceeds with. I'm not quite sure how far this has gone, whether there's any progress on that or not. So it would be interesting if somebody went on that call and was able to report on this later on in next week's call.

I'm not seeing anybody else putting their hands up. Jonathan, anything else to add? Or we can just check out for next week.

JONATHAN ZUCK: That's it.

OLIVIER CRÉPIN-LEBLOND: That's it? Okay. Thank you so much. Let's find out when we are meeting next week.

YEŞİM NAZLAR: Thanks so much, Olivier. As we're rotating, next week's call will be at 19:00 UTC on Wednesday, the 19th of May.

OLIVIER CRÉPIN-LEBLOND: Thank you so much for this, Yeşim. I believe that there's no clash with anything else on that, at least not in the At-Large calendar. I hope that there is no conflict with other processes outside the At-Large calendar. But 19:00 UTC it will be next week then. Fantastic, 19th of May already. Goodness. It goes very fast.

With this, we have some minutes to spare. We can all give them back to you. Thanks very much to our interpreters who have done wonders for this call, as well as the real-time text transcription which is always very helpful indeed. With this, have a very good morning, afternoon, evening or night, wherever you are.

YEŞİM NAZLAR: Thank you all. This meeting is now adjourned. Have a great rest of the day. Bye-bye.

[END OF TRANSCRIPT]