
ELISA BUSETTO: Good morning. Good afternoon. Good evening. Welcome to the second meeting of the Rights Protection Mechanisms Implementation Review Team on 30 January 2023, at 15:00 UTC time. There will be a roll call as part of the introductions and if you are on the audio bridge, please let yourself be known now. Nobody is on the audio bridge. Thank you.

I would like to remind all participants to please state your names before speaking for transcription purposes and please keep your phones and microphones on mute when not speaking to avoid any background noise. As a reminder, those who take part in ICANN multi-stakeholder models are to comply with the expected standards of behavior. With this, we will start going through the agenda. The first agenda point, we have a welcome, an introduction of the new members. And since we have a few new members, I would like to ask all of you to please introduce yourselves.

ANTONIETTA MANGIACOTTI: Hi, everyone, I'm Antonietta Mangiacotti. I am on the Policy Research and Stakeholder Programs team, and I will be supporting the Implementation Team as we work on implementing the RPM Phase 1 recommendations. Thank you.

LARS HOFFMAN: Hello, everyone, my name is Lars Hoffman. I'm also supporting this work, and I'm working with Elisa, Antonietta, and Leon, as well as other SMEs

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who are on the call. Welcome, everyone, and I guess it's maybe not too late for a Happy New Year.

ELISA BUSETTO: If any members are joining for the first time, please take the floor.

RENEE FOSSEN: Hi, this is Renee Fossen with Forum. It's my first meeting today. Sorry, I'm late.

ELISA BUSETTO: Anybody else would like to introduce themselves?

SUSAN PAYNE: Hi, Susan Payne here. I wasn't able to make the previous call. I did send an intro around on the mailing list. I'm a member of the Intellectual Property Constituency and I participated in the Rights Protection Mechanisms PDP, so I'm very familiar with the recommendations. Thanks.

JODY KOLKER: Hi, Jody Kolker from RrSG and GoDaddy. I'm excited to get started with this. I also missed the first meeting. Nice to meet everyone. Thank you.

GUSTAVO LOZANO IBARRA: Hi, this is Gustavo Lozano, ICANN staff from the GDS Technical Services team.

SCOTT AUSTIN: Hi, I'm Scott Austin, Private Practice at VIP Law Group in Fort Lauderdale, Florida. I'm also a member of the IPC Constituency, I worked with Susan on many matters over the years. And unfortunately, I too was not able to make the first meeting so I'm very pleased to be here and I'm looking forward to it. Thank you.

LARS HOFFMAN: Thanks, everyone for joining and for introducing yourselves. If there's anybody else, feel free to go in the chat or by mail, as Susan said and she's done, I think, for the last year now, technically. I'll pass it back on to you, Elisa, for the SOIs.

ELISA BUSETTO: Thank you, Lars. As communicated via email, all IRT team members should have an up-to-date statement of interest. So if you haven't published yours yet, please do so at your earliest convenience. Also, if you already have one, please make sure it is up to date. If you have any technical issues, please feel free to reach out to me in the chat or later via email. With this, we can hand it over to Lars and then Antonietta for the third agenda item. Thank you.

LARS HOFFMAN: The third agenda item is why we've come together here to review the material that we started to redline. Antonietta will walk everybody through the documents. Just a quick heads up on the methodology. We talked about that last time. We've done the work before the call, we tried

to do that for every call. Obviously, something to review, we sent this out to the group also before the call, if you take a look there.

The purpose here on the call is for you to just go through the documents, any initial feedback you have is very welcome. The real purpose is to make sure you have no clarifying questions or concerns. Especially for those who are in the working group, any concerns about the intention or the wording of the recommendations that are being implemented with the updated wording. And then we'll take them on board, and we can discuss what you think is appropriate.

But our thinking is between two and three weeks to review the materials and provide comments on the list, then we'll take those on board, set the language aside and move on to the next section. If there are some real concerns that we need to revisit we may have to get back on another call. Otherwise, we move on to the next section. I hope that makes sense. If anyone has any questions or concerns, speak up at any time and we can revisit that. With that, I'll pass it on to my colleague Antoinetta.

ANTONIETTA MANGIACOTTI: As Lars mentioned, I'll walk everyone through the IPT proposed redlines. They concern the URS rules, the URS procedure, and the URS technical requirements for registries and registrars. Please feel free to stop me at any time for any comments or questions that you have or the IPT. You can also provide your feedback on the list or directly in the Google doc at any time, and we can get back to you there.

As was also mentioned in the email that Elisa sent out last week, the URS documents, as you may have seen, include proposed changes in red text.

These changes are coming out of the PDP Phase 1 implementation. So you'll see we've noticed this at the top of each URS document. We've included these here as reference and comprehensiveness as the RPM Phase 1 final report also touches on some of the relevant PDP recommendations.

And just as a quick background for those that may not be familiar with that work, the Phase 1 recommendations from the EPDP suggested that updates be made to existing procedures and roles impacted by GDPR, and this included the URS as well. These policies and procedures were reviewed and revised as part of the implementation of the PDP Phase 1 recommendations. And these documents, including the URS, were posted for public comment on December 5th of last year.

That implementation team is currently reviewing the input that was received to determine if any other changes are needed to the text that you see in red, or whether they can be considered final. But for the purposes of this project, the intention here is to focus on the changes that are made in suggesting mode, as those are based on the RPM Phase 1 recommendations, noting here as a reminder that the scope of the updates for this project is limited to what the RPM PDP recommends.

So, as you will see, most of the text in the suggesting mode attempts to mirror the language that is used in the RPM PDP Phase 1 recommendations. We propose starting with the review of the redlines and the URS procedure and then moving to the URS rules and the URS technical requirements.

And with that, let's start with the first update to the URS procedure. That can be found under Section 3, Administrative Review, specifically concerning paragraph 3.3. Under URS Recommendation 1: The Working Group recommends that procedure paragraph 3.3 be amended to update a complaint within two to three calendar days after the URS provider provides updated registration data related to the disputed domain.

As you can see, we've incorporated that text there in this paragraph. There was also a question about the timeframe. And we have two to three calendar days to cover that if we're understanding the recommendation and the question correctly. The time frame is coming from the URS Final Recommendation 1.

The next update is under Section 4, Unlocking of Domain, specifically paragraph 4.2. Under URS Recommendation 4: The Working Group recommends that it be amended to require the provider to transmit the notice of the complaint to the respondent in English and translated into the language of the registration agreement.

And then the Working Group further recommends that it be mandatory for the providers to comply with URS paragraph 4.3 and transmit the notice of the complaint to the respondent via email, fax, and mail. And they noted down here, the context regarding this last part, the Working Group had discovered some non-compliance issues with one of the providers. And so, that is the context of this recommendation, but we don't believe anything is changing to paragraph 4.3.

So, again, we have incorporated the part about the notice being translated into the language of the registration agreement. And in

discussions with the IPT on this, we noted that the agreement is between the registrant and the registrar. And so, the registrar does not have a copy and wouldn't know the language of the agreement, so we need to determine and figure out how the registrar would need to communicate the language to the providers as they were able to then comply with what is being required. This is something that we've flagged for discussion here in the rules as well.

The next update is concerning URS Recommendation 5, it impacts a couple of paragraphs in this document. Apologies if I'm jumping around here, but essentially this Recommendation recommends that paragraph 6.2 be amended to clearly define what default period means. And you will see we have included language for that there, and I'll go back to it in a second, in terms of where it's coming from.

And secondly, the registrant shall not change the public and non-public registration data elements related to the disputed domain name, so we've added that there "shall not change the public and public registration data elements." They also further recommend deleting the text. The registrant will be prohibited from changing content found on the site that is not in legitimate use. So we've deleted that there.

And then they recommend incorporating this text into other sections in the procedure, specifically, the text could be incorporated into paragraphs 5.9 and/or 8.1. We deleted it from 6.2 as recommended and added it under 5.9. As you see here, we've added paragraph 5.9.3 and for consistency stated it similarly as was done in the paragraphs above it, 5.9 and 5.2. And we've also included it in 8.1 as one of the standards that the examiner may consider.

GRIFFIN BARNET: Thanks, Lars. And thanks, Antoinetta. I just had a couple of quick comments on just potential tweaks to the wording for 5.9.3. as well as 6.2. I just think the language could be tightened up a little bit. I'm happy to share that. Maybe I'll just paste my suggested rewording in the chat, or I can send it by email. But just to note it quickly, my concern regarding the current wording of 5.9.3 is that the first sentence is a bit passive. It doesn't specify who is changing the content. I think it's meant to refer to the respondent changing content.

And then in the second sentence, the use of the word may be "abusive." I just think we should maybe tie that more clearly to the bad-faith element as opposed to saying "abusive" because that's maybe a broader standard that's not used elsewhere and in the URS.

Again, I can send some proposed wording changes. Maybe I'll just drop that into chat so you can take a look at that. But I just wanted to flag that. And then for 6.2. again, I think we could tighten up the wording just a little bit. And I can send a potential change. Again, I can drop that into chat and/or send it by email.

ANTONIETTA MANGIACOTTI: That would be great, thank you.

LARS HOFFMAN: Griffin, I personally have a slight preference for email, if it's not too much trouble.

GRIFFIN BARNET: Yeah, absolutely. I'll send those tweaks by email to the list. Thanks, Lars.

LARS HOFFMAN: Two quick things: Susan is next on the line, and I don't have the link handy either Jody, but Antoinette, would you be able to quickly paste it into the chat? Thank you. Susan, please.

SUSAN PAYNE: I had a quick comment on the final sentence of 6.2. It's possible that this would get picked up by Griffin anyway, but that final sentence now says "during the default period" and then it ends with "during the default period" so it has that wording twice. But again, would you rather have this over email?

LARS HOFFMAN: I think it's probably easiest, Susan, if that's okay for you. And then you can maybe see what Griffin says.

SUSAN PAYNE: Okay. Perfect.

LARS HOFFMAN: Also, Antoinetta, please correct me if I'm wrong, but I think comments in the document itself are also a possibility. No?

ANTONIETTA MANGIACOTTI: Yeah, you can leave comments in the document at any time, and we can get back to you on the response.

Back to Recommendation 5, I mentioned the definition of default periods. Here's context, the Working Group noted in their report that this term is not defined in paragraph 6.2 but it's also not defined in other URS-related documents. And so, based on the definition of default pursuant to the word default pursuant to URS Rule 12 A the Working Group understood that the default period starts when a URS case enters default and ends when the examiner issues a default determination.

Another point to note here also in terms of the change there, the Working Group noted as part of the context for Recommendation 5 that recommends replacing the use of the passive voice in the phrase "will be prohibited" with something that provides more direct instruction to the registrants. And so, we made the change there as well, based on URS Recommendation 5.

Additionally, the last part here, the public [inaudible - 00:20:32] registration data whereas, previously, WHOIS information was being used. The PDP Recommendation 27 report suggests updating this to clarify that the registrant should not change the public [inaudible - 00:20:52] registration. That is the reason why it's been changed there as well. I think those are the updates for this paragraph here, 6.2.

Moving along to Section 7, the update here is based on Recommendation 6. The Working Group here recommends that paragraph 7, the procedure be amended to add a requirement that each URS provider shall publish their roster of examiners who are retained to preside over

URS cases, including identifying how often each one has been appointed together with them and they respect the decisions. The requirement there has been based on your URS Recommendation 6.

SUSAN PAYNE:

It's back to 7.4. The same question will come up when we get on to the rules as well. But there was some implementation guidance given which you've repeated, very helpfully, in the comments about being able to search against the name of an examiner which would satisfy this requirement. But that's not picked up in the actual amendment that's been made. And so I just had a question about where that implementation guidance gets captured so that in the future the providers are aware of it.

ANTONIETTA MANGIACOTTI:

I think this potentially could be included here and in 7.4 and then also communicated to the providers as well if that works. We could include it there. Maybe a suggestion could be made, if you'd to make a suggestion as to how you could capture this into this 7.4 paragraph that would be helpful as well.

Again, we covered 8.1 earlier. I think that was it. [inaudible - 00:23:47] that was the first time the term has been used, so that's another change we made, very minor. I think that covers it for the revisions to the URS procedure.

If it's okay with everyone, we can move on to the URS rules. The first update made was in Section 2, Communications. There's URS

Recommendation 11, it recommends the providers [inaudible - 00:24:30] registrars/registrants forward their relevant WHOIS data to the URS provider. It appeared that the revisions coming out of EPDP Phase 1 implementation seem to cover this, however, a review and confirmation from the IRT are requested to make sure that the updates coming out of Recommendation 11 are sufficiently captured or whether additional text needs to be added. For instance, maybe a paragraph above it to capture anything else that has been recommended under URS Recommendation 11.

The next update is based on URS Final Recommendation 1: The Working Group recommends that the URS Rule 3 B [inaudible - 00:25:44] be amended to clarify that the complainant must only be required to insert publicly available RDDS data for the domain names [inaudible - 00:25:54] initial complaint. And so that text has been captured here in this paragraph. This recommendation also calls for the providers updating their supplemental rules to clarify this point as well. The providers would also be expected to implement this in their supplemental rules, and we can work with them to make sure that this is implemented.

GRIFFIN BARNET:

I had a comment just on the last addition to this paragraph. I know in 3.3 of the procedure, we discussed the submission of an amended complaint following disclosure of the full contact details, and that's where we added in the X number of days, the three calendar days. I just wonder if it might be helpful to include a reference to that here. Because it basically says you can file a complaint against an identified respondent and then you get the contact details.

I understand that it's potentially duplicative of what's in procedure 3.3 but I thought maybe it would be helpful just to add a reference here to say the complainant has the opportunity to file the amended complaint as referenced in 3.3 of the procedure, or something like that. I don't know if folks think that it would be helpful. It seemed helpful to me.

ANTONIETTA MANGIACOTTI: Thank you, Griffin. Maybe you get a chance to add your suggestion, just we have a record of the updates being proposed.

GRIFFIN BARNET: Sure, yeah. I'm happy to add a suggested addition there.

ANTONIETTA MANGIACOTTI: Thank you. The next update can be found again, here under Section 4. URS Recommendation 4 recommends that Rule 4 B be amended to require the provider to translate the notice of the complaint to the respondent in English and the language of the registration agreement. This is what we discussed earlier, we need to determine how this is going to be communicated to the provider to make sure that they can comply with these requirements. Maybe this is something we can clarify in this section as well, but just noting it here for now.

The next update is under Section 6. URS Recommendation 7 recommends that Rule 6 B be amended to add a requirement that each URS provider publish [inaudible - 00:29:21] conflict of interest policy that the providers basically reinforces against an examiner who violates such policies. This was added in 6 C here.

In addition, under this section, there is URS Recommendation 6. It recommends that URS Rule 6 A be amended to clarify that each provider shall maintain and publish a publicly-available list of examiners and the qualifications for regular updating and publication of the examiner's CV. That has been captured here in 6 A. Any suggestion there would be helpful.

The next update is under Section 9. URS Recommendation 3 recommends the URS rules be amended to incorporate Rule 11 of the UDRP rules regarding the language of the proceeding, and specifically in the recommendation state points A and B from the URS rules to be added here under this section. And we have done so. Another point here is about the language of the registration agreement and how that's going to be communicated to the provider. It's been flagged in three separate parts in the procedure and the rules.

There is also another update in Section 15 for Recommendation 2. The Working Group here recommends that URS Rule 15 A be amended to clarify the word "complaint" has been updated with the registration data provided to the complainant by the URS provider [inaudible - 00:31:46] analyst have the discretion to decide whether to publish or redact such data under the termination. The Working Group further recommends that each URS party has the right to request that panelist consider redacting registration of data and elements from publication as part of the determination. So that text language is included here under Section 15 A.

Those might be the updates for the rules and some formatting changes. There are a number of issues that we've proposed changes to but in

terms of the ones coming out of the recommendation, those are for the URS rules. If everyone is okay, we can move to the technical requirements and go over the proposed changes there.

In this document, not many revisions, compared to the others. This one comes from Recommendation 15. It is calling for an update to the title of this document to be renamed as a URS high-level requirement for registries and registrars. And so, to remove the technical word from the title. We propose that update there, and to also be updated in the ICANN org microsites so we can work on implementing that change there as well.

And then the only other update which may require some discussion, and it may or may not result in a change, concerns the registry requirements. The Working Group recommends that the IRT consider reviewing implementation issues identified by the Working Group with respect to requirements and amend this as necessary. They also noted here as part of the context of providers, providers report [inaudible - 00:34:28] difficulty implementing the extension request of the URS suspension as they might not understand the roles and process.

And so, the Working Group here also recommends that the IRT rule implementation issues, as was mentioned earlier, and consider whether there could also be education to registries and registrars to understand this step better. This is something we need to consider that we can discuss as well.

So, these are the revisions coming out of the Phase 1 Recommendations. As I said, the ones in red are being implemented through the PDP Phase

1 Implementation, but we want to focus on the ones in suggesting mode for this project. Are there any questions or any other feedback that the team would provide? Please feel free to do so. If not, we can move on to the next item on the agenda. Thank you.

ROGER CARNEY:

Just a procedural question, I guess. There was a lot of other red text that you didn't cover. Is that something we're planning to cover? Again, I'm putting in comments to those so it doesn't matter that we cover them on the call, as long as people take a look at them and can respond to them. But I just didn't know if we were planning to cover those or if we are just specifically covering other items. I'm not sure which redline items we're planning to cover on the call. Thanks.

ANTONIETTA MANGIACOTTI:

As I mentioned, we're going to be covering the ones in suggesting mode. The ones that are in red are being handled through a separate project. The text that you see in red was published for public comments, along with other procedures and policies that were impacted by GDPR and were now being handled through the implementation of the PDP Phase 1 Recommendations.

And so, that team is currently going through the comments that they received on those impacted policies and procedures to determine if any additional changes need to be made to the text in red, or if they can be considered final. But any changes to that would be handled via that effort. For this project, what we want to focus on is what is being

recommended by the Working Group and the scope of updates that we can make is [inaudible - 00:37:56] in the RPM PDP Phase 1 report.

LARS HOFFMAN:

If I can just add to that, we were going back and forth, actually, whether to include it or not. But it's live language that's being dealt with in a different project, and so having the original language would have been a possibility not showing these changes. But then once we are finished, that other language will have been approved, most likely from EPDP Phase 1.

So we decided to include them here in red, not as track changes but just in a different font color to let you know that those are also being worked on by the EPDP Phase 1, as Antoinette has said. If it's confusing, we're happy to revert to making everything black. But then, just be aware that some changes may still be undertaken by the EPDP Phase 1.

SCOTT AUSTIN:

Along those same lines, I know that the WHOIS has been revised to read RDDS, at least, I've seen it a couple of times. But it's also going through an additional change in terms of its nomenclature. Is that going to be automatically altered as well, or do we have a final determination of how it's going to be referred to?

LARS HOFFMAN:

Scott, I don't know about the nomenclature. Antoinette, do you? Otherwise, we'll get back to you on that, Scott.

ANTONIETTA MANGIACOTTI: Yeah, I think we can get back to you

LARS HOFFMAN: Yeah, we'll get back to you, Scott. Sorry about that.

ELISA BUSETTO: Thank you. If there aren't any further questions, we can move to the next agenda point. We just wanted to inform you that we're planning to hold an RPM IRT meeting at ICANN76 in Cancun, Mexico. We don't know yet what the exact date and time will be, but ICANN76 will take place from the 11th until the 16th of March. You will have the chance to attend in person if you're on-site or remotely. And unless there are any questions about these

LARS HOFFMAN: Can I just add to that very quickly? Maybe you can indicate on the list or during the next call we can ask for a quick heads up. For those of you who are traveling to Cancun, from our end, we ideally would like to make it a working session, if that is at all possible, similar to this one. I know that we're probably going to finish early so maybe for other attendants we can add a 15-minute or so general overview of the project and present the work plans we did with this group during the last call and then go into a working session.

If there are not enough people available because of a duplicating session or if they don't attend and the timezone doesn't fit, then we can just

make it an update session. But, maybe something for everybody to consider until the next call. Thanks.

ELISA BUSETTO:

Thanks, Lars. Are there any questions or any other topics you would like to discuss? If not, we can close the meeting and end the recording. Thank you very much.

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