
ELISA BUSETTO:

Hello, and welcome to the 5th meeting of the Rights Protection Mechanism Implementation Review Team on 27th July, 2023 at 5:00 pm UTC. My name is Elisa Busetto, and I'm the remote participation manager for this session. Please note that this session is being recorded and is governed by the ICANN Expected Standards of Behavior. During this session, questions or comments submitted in the chat will be read aloud if put in the proper form. We will read quiz questions and comments aloud during the time set by the facilitator.

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ANTONIETTA MANGIACOTTI:

Thank you, Elisa. And hi, everyone. Thank you for joining today's call. If you've seen the agenda circulated by Elisa, today we are planning to cover the proposed path for each of the six remaining open items. These have been updated based on the feedback that we received from the IRT. And then we'll end the meeting by going over next steps for the public comment on the revised procedural documents.

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So, if you recall, this is the table that we covered at our last IRT meeting including some options for what to do with these kinds of outstanding items that we had as part of the recommendations in group 1. So, starting off with URS Recommendation 3 specifically, the guidance here for the items 1, 2 and 3 which recommend that providers make changes to preliminary submissions and notice of complaint. We are continuing to work with the URS providers on this to try to get a sense of what the feasibility is for them to implement these as path practice. So, far we've heard from two of the providers. Once we have that information compiled and ready to go, we will share it with the IRT.

And for item number 4 here, if you recall, the is the one about developing potential guidance versus URS examiners. So, we're going to keep this as part of this project. However, we are going to revisit this We're going to move it out of the recommendations in group 1 so as not to hold up the timeline, and we'll revisit this once all the recommendations have been implemented. All right. Any questions here? I can move forward to the next item.

Okay. On URS recommendation 4. So, if you recall, this is the one about mending the URS rules and URS procedure to require the provider to submit the notice of complaint to the respondent in English and translate into the language of the registration agreement. At our last meeting, we had proposed two options for how the register needs to communicate the language of the registration agreement to the URS provider. So, if the provider can comply with this requirement, the options are included and you'll see them here.

If you recall there, we had option 1, the provider sends the notes to complain in English first with the request that a registrar transmit to the provider within a certain amount of hours or days the language of the registration agreement. And then the option 2 for the or instead of the provider contacting the registrar, operator would contact the registrar for the registration data and include a request for the language of the registration agreement. Based on the feedback that we received, it appears that option 2 was the preferred approach here.

We also discussed this further with the IPT. And it was pointed out the recommendation itself doesn't recommend a method on how to determine the language of the agreement. And it should be up to the provider to determine to go about doing this, but it's important to include here a requirement for the registrar to provide the language of the registration agreement. So, what we thought-- With that being said, we went ahead and added a sentence at the end of Paragraph 4.2 of the URS procedure which follows the text that was incorporated in the URS Recommendation 4 to state that the registrar must provide the language of the registration agreement to the URS provider for the translation of the notice.

And in terms of next steps here, it was determining a timeline for doing this, an appropriate amount of days, and something that could work for the registrars. So as a starting point, what we're proposing here is to use one business day, not to exceed three calendar days. This is coming from the PDP phase 2. And it is also being discussed in the registration data policy as an implementation limitation project as a compromise timeline for urgent requests. With this timeline, registers would have to respond within business day, but if there were extended holidays then

the registrar must respond no later than three calendar days regardless of closures or holidays. And the rationale here is that the one business day would recognize the realities of some of the smaller registrars, but not to exceed three calendar days recognizes the concerns with extended holidays.

So, the language that is included in the URS procedure, you will see also on the screen highlighted on the screen here. And just quickly switching over to the procedure, it is highlighted here in yellow as well. And so again, this is kind of a starting point of what we're proposing here on how to address this issue. We're open to suggestions on a different timeline or if the text should be revised differently. Please let us know. I know it's the first time you all are seeing this, so we're going to leave some time, a week or so after the meeting, for the IRT to provide additional feedback or proposed revisions.

Are there any questions here? Not? We can move to the next item, URS Recommendation 6. So, this requires a provider maintain and publish a list of examiners and their CVs and to identify how often each has been appointed and a link to their decisions. So, it appeared to us that the recommendation and the guidance were both consistent and appeared to be incorporated in the revisions that we made to the URS rule, URS procedure which is for requesting priority confirmation here. We'd did not receive any input here, so we're going to mark this as incomplete.

Any questions? If not, URS Recommendation 14. So, this recommendation calls for amending the Register Requirement 10 to clarify that domain name is suspended. Suspension can be extended for one additional year and or develop the educational materials to help

registries and registrars understand how to implement the relief and gain better awareness of the URS process. So, based on the input we received, we're going to also keep this as part of our project, but not implement as part of the recommendations in group 1. We're going to revisit this one, this recommendation once all the other recommendations have been implemented.

I know we got some IRT input to maybe improve the compliance process. That could be one option. Another option we were also thinking is doing enhanced education or developing best practices, so maybe working with tech ops and the registries and registrars to develop those materials. That's what we had for URS recommendation 14.

Okay. We move on to the next one. The implementation guidance related to Trademark Claims Recommendation 5. So, the guidance here calls for the org to work with the registrars to this address relevant implementation issues regarding the 40-hour expiration of the claims notice. Again, based on the feedback, we're going to keep this as part of our European project, but this will be implemented as part of the recommendations to improve upon. So, we want to get this addressed prior to going to public comment.

Just as background, some of us met with TMDB to discuss this issue and the TMDB indicated that the proposed solution to the 48-hour expiration per the claims notice should work. From what I understand, the solution would be adding another data element to the claims notice to say when the last time the changes took place. Also note that Gustavo touched base with a few potential implementers regarding this

proposed solution. I think it was agreed that it would work, but I'll pass it on to Gustavo to elaborate a bit more on this. Gustavo?

GUSTAVO LOZANO:

Yeah. Thank you, Antonietta. Yeah. That's correct. We have a solution that appears to work, not only conversation with implementers, there are some optimizations that could be on the solution. So, I'm going to work with TMDB to see if these optimizations could be implemented but at least we have something that appears to provide a solution or a relief for this.

ANTONIETTA MANGIACOTTI:

Great. Thank you, Gustavo. And I just wanted to add here related to the claims notice. We also discussed with the TMDB adding-- without the TMDB, the new proposed data elements that we're proposing to add to the claims notice, Procurement Claims Recommendation 6, so the type of mark, registration number, registration date, status of trademark holder. The TMDB also do not have any concerns with these changes, but pointed out that the registration date is optional and can vary across the restrictions. So apparently, some jurisdictions don't use the term registration or some jurisdictions, the registration date is not filled in.

So, I think here maybe suggestion would be to change this element to local record date to indicate whether it's registration data application date. That maybe would be more useful. And if the registration date provided by the trademark owner is invalid or of no use, then it would

not be provided in the notice. Gustavo, I don't know if there's anything I've missed or explained incorrectly. Please feel free to add.

GUSTAVO LOZANO: No. You explained it correctly. Thank you.

ANTONIETTA MANGIACOTTI: Okay. Great. Thank you. Roger?

ROGER CARNEY: Thanks. This is Roger. Just on this one point, the reference to the 48 hours in here. I think definitely, I'd like to see this group take on and look at that 48-hour window. Again, I'm not sure what the reason was behind it, but if we can extend that 48 hours, it makes those pre-registrations a lot easier to handle. And trying to contact a registrar in the last 48 hours before something happens is just say very difficult. I mean, even in a week it would be difficult to turn around and try to get a hold of a registrar trying to register this in that time to do that.

So, I think that it would be good for this group to look at extending that 48 hours to something at least 7 days or longer than that. And, again, I don't know what the reasons behind the 48 hours was, and maybe it does make sense. I don't know. But, again, I have no idea what that goal was for the 48 hours. And it does cause some serious pain points. So, I would say without the knowledge of what the goal was and if it's actually being met, I'd like to see that extended out at least a week or more. So, thanks.

ANTONIETTA MANGIACOTTI: Thank you. Okay. Last here on the table is Clearing House Recommendation 4. So, this is the one about the database providers maintaining industry standard levels of redundancy and uptime. So as mentioned at our last call, this one will be implemented as part of the work for the next round. ICANN, the org extended the agreement with Deloitte and IBM to maintain the status quo and not causing disruptions for users of the TNCH. So, when we do an RFP and select any provider, draw that contract, it will include language here that reflects what is in this recommendation. So, again, it will be moved out of the recommendation in group 1, and will be incorporated as related to the work of subsequent round.

Okay. Any other questions? All right. If not, I will cover the remaining two agenda items which relate to the public comments. Oh, Griffin, your hand is up.

GRIFFIN BARNETT: Yeah. Hi. Hopefully, you can hear me.

ANTONIETTA MANGIACOTTI: Yes.

GRIFFIN BARNETT: Great. I just had an overarching question for the several recommendations where we're proposing to move them out of the initial stage, I guess of implementation to the secondary stage or the

ones that require additional examination or some further review. What do we envision as the timetable on that? Is that something where we reserve those and keep them out of the initial public comment and then revisit those after the initial public comment? What's the time frame, I guess, is the question about those?

ANTONIETTA MANGIACOTTI: So, we want to move forward with the public comment, and these items don't involve making revisions to those documents. And so, we think that moving them out of group 1 and then revisiting them at a later stage. We would like for the other groups to potentially go first before we revisit these, I believe, two or three items. However, we can discuss this following public comment to see if it makes sense to include them as part of the other groups, maybe group 2 or 3.

GRIFFIN BARNETT: So, I guess the answer then is we don't know exactly, but they'll be revisited sometimes.

ANTONIETTA MANGIACOTTI: Yes. We will implement them and we can discuss again, where it makes sense to include these.

GRIFFIN BARNETT: Got you. Understood. I just wanted to see if there was any idea of that at this point. The other question that I had or I guess it's like a comment really was in response to the point that I think Roger made

about the 48-hour claims notice thing. And it's not to say one way or the other whether that's the right time frame or not, but I think in my mind, that may be a policy question that I don't know that we can change through the IRT. Unlike some of the other issues, I think the 48-- if I remember correctly and staff can correct me if I'm wrong on this because I haven't had the chance to look this up specifically, but I believe that the 48-hour requirement did come from prior policy. So, I don't know if that's something that we can change at this level.

Again, that's not to comment on whether that's a bad decision or a good decision, whether it should or shouldn't be changed, but just whether or not-- I don't know whether that's actually in scope or something that we can change through implementation at this point. Yeah, I guess I'll leave it there. Just to add that comment.

ANTONIETTA MANGIACOTTI: Thank you.

GRIFFIN BARNETT: Thank you.

ANTONIETTA MANGIACOTTI: And, Roger?

ROGER CARNEY: Thanks. This is Roger. Thanks, Griffin. I had thought the same thing when we had started looking at this back years ago during the RPM-

PDP, but no one could point me to any policy development process that this came from, these 48 hours. So, it was put together, I think in some last-minute meetings. And, again, maybe there's reasons for it. I just don't know what they are. No one's been able to share that either. My understanding is it was not done during policy development. It was done during an implementation discussion. Just my thoughts. Thanks.

ANTONIETTA MANGIACOTTI: Okay. And Susan?

GRIFFIN BARNETT: Can I just respond quickly to that?

ANTONIETTA MANGIACOTTI: Yeah. Go ahead.

GRIFFIN BARNETT: Yeah. Sorry. Just to say I don't think that you're wrong on that, Roger. I believe that that time frame is in the current contracts or in the existing policy regarding the claims notice. So, whether or not its origination was from a policy or some kind of implementation, the fact that it's in a binding document at this point, I don't know whether that's something that can subsequently be changed through our implementation team. That's all I meant to say.

Again, yeah, off the top of my head, I agree. I don't know whether the origination of that time frame was or wasn't from a policy group or from

an implementation group or what have you. But whether we can change it through this implementation group, I don't know, because I think it would be essentially revisiting a binding contractual requirement at this point. But, again, if somebody can point me to some other approach on that or if that's not the case, then I'm happy to be corrected, but that's my understanding at this point. Thanks.

ANTONIETTA MANGIACOTTI: Yeah. Thank you. Susan?

SUSAN PAYNE: Yeah. Hi. So, Susan Payne. I'm sorry everyone to be late. And I can't answer that either. I suppose all I was going to say and to point out was that of course, policy development and the policy development outputs back in the day, back at the time that the new gTLD policy for their last round was developed looked very different to the kind of outputs we see now. So, the policy recommendations for the previous round are really high level and that includes things like that shall not infringe the legal rights or the legal rights of others and that's kind of the policy you mustn't infringe. And then everything that was built off that was done effectively as implementation, but just in a very different kind of format to the way we are now doing things.

And so, I think what we were doing as part of this RPMs, PDP and similarly, it was done in SubPro was formalizing to the extent that it needed formalizing what was done previously as being the policy. Because no one's suggesting that it wasn't discussed, that there wasn't

cross-community work on this, it wasn't extensive public consultation, but the policy process just looked very different 15 years ago.

ANTONIETTA MANGIACOTTI: Thank you for that. Okay. I see. Let me see the chat. Okay. We're on the 48-hour. All right. And on the public comment. We had circulated a couple emails last month asking that the IRT do a final review of all the procedural documents to flag any concerns that there may be before we can move forward with that. But given that there's new proposed text to Paragraph 4.2 of the URS procedure and I think RPM requirements either, I think, Gustavo, from our own would need to be revised as well for the pre-registration issue.

So, we're thinking of the IRT giving one week following this call to look at the new changes as well as all of the documents to flag anything that we've missed or any other concerns that there may be. And then we'll plan, but we'll begin to prepare those for the public comment. We're aiming for it to take place sometime during the week of August 21st. It will be a standard 40-day comment period, closing right before ICANN78. So, in terms of timing, we could review and discuss any comments at the meeting and make any further updates to the documents as needed. So, Griffin, I see your hand is up.

GRIFFIN BARNETT: Yeah. Sorry. Griffin, again. I actually I had a question that I meant to raise earlier in relation to the solution that Gustavo was discussing. And I understand that that still perhaps being developed between Gustavo and that team and the various folks who are responsible for

implementing that part of the claims notice process. But do we have any expectation at this point of when something more concrete might be circulated to this group to take a look at? I anticipate that, again, that's something like we've said earlier that that will happen possibly after the initial public comments since this looks like an issue that will be in that secondary group of issues, but I just wanted to see if we had any additional clarity on that at this point. Thank you.

ANTONIETTA MANGIACOTTI: So, this is for the 48-hour solution, right, and the changes to the claims notice and the RPM requirements?

GRIFFIN BARNETT: Yeah. Exactly. In relation to I think it was Recommendation 5? Yeah. The solution, basically, about the pre-registration in claims notice presentation issue.

ANTONIETTA MANGIACOTTI: Yeah. I'll pass it to Gustavo to see if you have a sense of when we can get those materials ready. Gustavo?

GUSTAVO LOZANO: Yeah. So, there are two things here. One is to have a technical solution to, let's say, better support or provide a better support for pre-registrations. That's one thing. That's what we have been working with the TMDB. The second item is the 48-hour timer. That's a different conversation and that topic is probably something that the IRT will

discuss, what that time should be will be if you believe that this is an implementation decision or, I don't know, if you really believe that this is policy then, well, there is an avenue for that.

Now regarding the technical solution for better support pre-registrations, I think that we can have or I can describe proposal in the next IRT meeting. I think that that is doable. So that will be my target to at least present to you how the solution could work and maybe have some kind of, let's say, proposal of how the RPM requirements will be modified. Yeah.

ANTONIETTA MANGIACOTTI: So, the RPM requirements would need to be revised and published for comments we're aiming on August 21st. So, we weren't planning on having another IRT meeting prior to that, but maybe we can discuss this.

GUSTAVO LOZANO: Yeah. So sorry about that. Yeah.

ANTONIETTA MANGIACOTTI: Yeah. Okay. Thank you. Okay. I think that's all we had for today's agenda. If there are any questions, any final comments, please feel free to share. If not, I guess we can give everyone some time back and end this meeting. So, thank you all again for joining.

GRIFFIN BARNETT: Thanks, all.

ANTONIETTA MANGIACOTTI: Thanks. End the recording this week.

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