ICANN

Moderator: Maryam Bakoshi
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Martin Silva Valent: Hello. This is Martin Silva Valent and we're going to begin with the Right Protection Mechanisms session. Woo hoo. For the people inside RPM, this is very important and exciting. For everyone else, like, we're still trying to get your attention. Um, well, just to have some level on what we're talking about, the Right Protection Mechanisms is a working group that started back in - after - it was in Marrakesh after the (unintelligible) 3 October 18 (unintelligible) 2016 and it's proposed to review all Right Protection Mechanisms from TDL lists.

Uh, the most known mechanism, so that for those who are maybe scratching your heads is the UDRP that basically states who can challenge the rights to hold a domain name. And then the goal (unintelligible) so that is to go through each of those mechanisms and try to understand if they were effective in protecting the rights that we were wanting to protect and if they fulfill the purposes and the expectations of the process, like yes, it was - maybe it was effective in protecting the right, but it wasn't fast enough.

Um, this also took in account other interests that the mechanism was supposed to take so in order to go through all of them and say, okay, this process is

absolutely perfect, we love it, we still want to have it for another 8, 10, 50 years or we want to change this, we want to eliminate this, we want to unify this, uh, we're going to have -- or even to say we are going to have a problem with this in X time.

Um, and uh, we divided thus, I think you can move the slides. Who has the slides? Oh, thanks. One more? Um, one more. Okay. So those are -- I can't even read them from here, but those are the mechanisms that we're going to review and they're basically divided into phases.

In Phase 1, we're going to review or we are reviewing right now, because we're in Phase 1, the mechanisms that are related to the new gTLD program and they have yet to have those -- that division is not -- we want to match or be able to give a full review of those mechanisms in order to have the second action procedures launched. So that all review would not delay the second round of new gTLDs.

And in the second round - this is the only thing that is not particularly relevant to the new gTLDs - it is more general - is the UDRP and this, of course, is going to take its own time.

We have, uh, with (John), and then I'm going to let you talk about the timelines of before and timelines that we are right now.

John McElwaine: Sure. So if we can move it onto the next Slide, and I think this one is, um, interesting. You'll note on this slide of that, uh, the very bottom there that we - initially we were supposed to be finishing this Phase 1 by late to end 2017 and we're now in 2018 and getting into it. And so one of the goals that (Martin) and I wanted to have for this session is that, you know, this slide here is short. Um, this working group is off course in terms of the timeline. There's a

revised time. There's a revised timeline that you'll see later. But there's been some issues in coming to consensus. Some issues, um, concerning external factors that are going to be playing upon this working group and hoping to get your input on where this group sees the, um, the RPM working group headed. Any solutions that you may have, any suggestions, et cetera.

To start, if we look at what we've done, we hit what was called the Post Delegation Dispute Resolution Policy, and we were able to kind of get through that pretty quickly, on time. We may have gone a little bit over time, um, without too much controversy. Now granted, that is an RPM that has never been used before, so when we got into some of the more substantive discussions, the Trademark Clearinghouse and the Trademark Claims Notices in Sunrise, it got a little bit bogged down and we'll kind of go into some of that later.

But quickly here -- sort of show of hands or whatever -- how many people are on the RPM Working Group that are around here? Okay, and so I'll hit pause, I mean, does - is anything that I'm saying resonating or am I off? Does everybody think it is -- this group is working efficiently and um, is, you know, on course? So (Martin), go ahead.

Martin Silva Valent: I think that yes, we are delayed in the timeline for at least, what, four, six months at the top, um, but first of all, we were supposed to match Phase 1 with the new action procedures, so this is -- and this was an estimated timeline with that hope that new action would be, like, closer. That the new round was going to be closer so it's a deadline that -- it's actually not -- first off, it follows other deadlines as arrive. So that's the first thing.

We haven't achieved this deadline we put but I don't think that's -- it didn't create harm specifically and that's relevant and in our sense, if the working

group is working or good or not or that, um, I think in compare to other dynamics that I've seen in other working groups, it's fairly good. I mean, yes, it could be better.

Yes, there are dynamic problems inherently to that group for the subjects that it's dealing with and because there is a lot of discussion on factual things so we are always debating of was the evidence of past experience off and the subjectives of saying I've seen this many cases and he's seen that other and that's a contradiction so I think -- given all that -- the workgroup itself is working. It's going. The chairs are doing a good work but I think there's always room to tighten up this - the screws and to especially try to sort out why we hit walls during this process. That we did - we did hit a few walls that no one thought that we would do. So those are my feelings and thoughts on it.

Christian Dawson: This is Christian Dawson, uh, for the record with just a quick, uh, question or check. Uh, it doesn't surprise me at all that this is taking a little longer than we anticipated. Isn't it true that this is the first time that we've opened up the UDRP to community review in 18 years? I figured there'd be a lot to talk about.

John McElwaine: Yes, we, um, it is the first time it has been opened up. We haven't even got to the UDRP yet, so that - there's been no delay as a result of that, which is going to be a big undertaking, no doubt.

Martin Silva Valent: To verify further, just to repeat it, there is two phases. Phase 1, new gTLD mechanisms and to clarify that, we already did the Trademark Clearinghouse, we already did (unintelligible) solution process and we are now in the URS -- Uniform Rapid Suspension Mechanism, and I guess that we could discuss briefly what we are trying to do now in the URS.

John McElwaine: Yes, so right now on the URS we've sort of looked at, um, what it is -- which I assume most people in this room know -- uh, and we are starting to get into a discussion as to how are we going to, uh, evaluate the URS's effectiveness, um. We have as a group looked at what are the sort of overarching five, um, factors that we want to look at with respect to the URS and then are working on a study to look at those cases.

Last night's call had a little bit of debate over the scope of that review with some folks wanting to look at almost every single case and I think where we ultimately came out was that we would be looking at a subset of cases and giving that a - say a subjective look and that was somewhat of a, um, a debated point as to whether those decisions needed to be adjusted, whether there was anything missing or anything we would suggest in the form of those.

Martin Silva Valent: Yes, and I would add does anyone hear doesn't know what URS is? Good. Um, then the debate, it's interesting because it also is allowing us to see what's going to be the first probably step in the UDRP in the sense of if we can understand what makes a dispute process successful or not -- again -- so with a new measure we have to create it will also let us understand what we are going to use later in the much more important mechanisms.

So URS is also interesting because of that -- it is an exercise that we are going to definitely use in the next task and one of the (unintelligible) things that I've seen -- we could talk about what points created bumps or at least things are worth mentioning to this group. One of those big things is that for instance we had a data budget request to gather data. It went to GNSO Council, the GNSO Council approve it but it couldn't got implemented and I think that was worth mentioning in case anyone wants to find out further that sort of thing. This is what happen when our working group needs to solve his work - its work - um,

data or some sort of research. The GNSO Council approves it but the budget is not there. So that's an interesting thing that we're working together with budgets and we -- this was a hot topic during these sessions and this is a very clear example where not having the correct approach towards resources leaves us in sort of a difficult spot we said, "We cannot go forward without this," they - politically GNSO says yes, and yet we are not going to have it and we are going to have to move on without it. Um, now I have - (Raoul), you had your hand up?

Raoul Plommer: Yes. Um, could we start calling it the Trademark Protection Mechanisms?

Martin Silva Valent: You should do that statement when I'm with the NCSG people just so they don't get their hopes up. It's only one sort of rights. But technically and I will defend why it called RPMs -- why it is Right Protection Mechanisms -- because yes - the main right that is being protected is trademarks but trademark is balanced against other rights in these mechanisms so it is rights. It's only that it's a point of view but it's more than one right that is taken in account when you design this.

John McElwaine: So there has been some discussion in the chat room, um, kind of mentioning that they - some of these folks have felt like they're - it's been difficult to understand when any conclusions have been reached and that operating in sort of this plenary, um, setting has made it difficult to have, um, more efficient again - in my opinion - um, meetings to help, you know, advance the work of this group. Um, so I just wanted to kind of throw that out - that there's sort of differing opinions about how well this is, uh, functioning.

Martin Silva Valent: Yes, can we go to the next Slides? Um, here we have some examples of problems that - of specific things during this process that we found, uh, we found a specific disagreement. Um, we did take a little bit more time than we

thought in the Trademark Clearinghouse debating what sort of things could go into the database of the Trademark Clearinghouse related to the use to either block or challenge a future new gTLD, um, and same goes for the matching rules - what happens when something - a string that is similar matching some sort to something that is in the database and also going to have the protection that the Trademark Clearinghouse gives.

Those are the things I think revealed a concern at least from the civil society space but also we're talking just about geographic names and we also had that discussion in that point. Like, should the Trademark Clearinghouse, uh, allow geographic names? Are there trademarks? Because it felt that it was inside the property when we were discussing but they're not trademarks so it did touch a sweet spot on what are we protecting here and a danger of allowing other things. And I don't want to go too deep into it but the Trademark Clearinghouse is being handled by one provider and that provider could have some sort of discretional place if we don't tell him otherwise and it was also interesting to see what sort of discretional decisions this provider that is managing the TM -- the database of the Trademark Clearinghouse -- was taking.

For instance - was he taking geographic domain names when they were presenting a trademark or a treaty, uh, a registration some sort of their country or region because it doesn't really works that way. So it was interesting to see those aspects of the Trademark Clearinghouse and well, right now we're also discussing in the URS these sort of same questions. What's the scope? Other things we're going to review? Our people in the URS actually using the system - if they're not using it just because they don't know it because it's inefficient because it's too - doesn't bring the value to the (unintelligible) and the members or do even people know about it? Like, when a registrant gets a URS - one of the few - did he know what an URS was? There are cases of

very well-known companies that applied for URS and they demanded then registries into ICANN to act as an UDRP.

So those are the sort of questions we are doing in the URS. It was created as a less expensive way to enforce rights and we are trying to debate if that's actually happening with URS or if it's just a superfluous mechanism or it need to be tweaked in order to be useful.

John McElwaine: (Unintelligible) I don't know if anybody else has any other - who's on the working group - has any other points they want to make concerning areas that have been difficult to - for the group to come to consensus and if they have any solutions, uh, but if not, we can probably move on to what is picked up - taking up a lot of our time at this meeting which is some of the external issues that are impacting the working groups if we can advance the slide.

Well, as we work on advancing the Slide the one issue that we do foresee impacting the working group is going to be GDPR. As many people know, in order to, um, just practically file a UDRP or implement one, you have to be able to get to the WhoIs information. So for instance when, uh, even behind a privacy proxy, um, registration when a UDRP is filed, uh, the identification of that registrant is disclosed and they are served with the complaint and it's possible that as GDPR rules are looked at by this community and implemented, there are going to be revisions, uh, different things that we're going to have to do with the respect to the Rights Protection Mechanisms in place that we're looking at. So that's an example of an external, um, issue that is impacting the, um, of the RPM Working Group. Yes, go ahead.

Paul McGrady: So just to speak to that briefly, um, so if GDPR at the end of the day we end up with a, um, inability to, um, have WhoIs data or data that's searchable to, uh, that's going to affect URS as well EDRP. Both of those policies

contemplate the ability to show a pattern of bad faith behavior but if you don't have access to all the domain names to show that pattern, um, then that's a practical prong of URS and the UDRP that simply doesn't exist anymore. It's hard to negotiate in a vacuum as GDPR is pressing down on that. So I think you'll - maybe one of the reasons why nobody wants to reach a conclusion is because we don't have the information that we need, um, to negotiate one way or the other. So hopefully that will pass through and we'll get some direction from, um, ICANN staff about that issue but that's one of the practical ramifications of GDPR which is RPMs are held up, effectively, by that. Can I speak to subsequent procedures too?

John McElwaine: Yes. Absolutely.

Paul McGrady: Okay. The other thing is the timeline on subsequent procedures -- one of the things we talked about at Council earlier this week is, um, sort of a traffic cop role of Council and so we have some things to think about. So for example, say we're still talking about URS when, uh, the subsequent procedures folks are done and the community is otherwise prepared to launch round two, the Council will have to decide whether or not they want to hold up round two to keep talking about the URS or whether the URS portion of it will be paused, um, and pushed into Phase 2.

So those are some of the things we are thinking about in terms of, um, allowing this particular PDP to run its natural course but at the same time not have it hold up the work of, um, other parts of the community that are moving along. Um, this is not to say that this PDP isn't moving along. It's moving along and it's not to say that this PDP is, you know, bogged down in interpersonal things. There certainly are some personal things in this PDP that are going on but it's not, I mean, compared to RDS - I understand it's - this PDP is a paragon of virtue, um, and so it's bumpy. PDPs are supposed to be

bumpy. If it were easy, we wouldn't need the PDP, we would just have a kumbaya moment and move on, right? So it's making its way but there are - but these external things are things to think about.

Martin Silva Valent: Thanks, (Paul). Anyone else want to have a comment or an issue specifically that would like to address? (Unintelligible) participants? Okay, if that's it I think we're done. I know how are we - how are we doing with time? Yes?

Man 1:   I have a question. So we've just talked about some of the reasons for delay and we went over some of the areas - some of the - I don't want us to end on what - the last two things were very reasonable externalities that are slowing us down. Um, but I sort of feel like we should go back and you should end with an ask because we may be able to better figure out a path forward on some of the areas where we're sticking to if we can just sort of - if we can go back a Slide for a second. And okay - no, no, no. (Unintelligible) this has been difficult, okay?

Should we spend a few moments, um, addressing, um, the major debate that's at hand here - going a little bit deeper on how the people in this room who probably are on dramatic both sides of these issues, uh, can we get to some sort of a, uh, probably can't get a pathway to resolution in the next half hour but we have some extra time and if we're going to spend some more time, it ought to be on those three sections, not this. It's the slide where you said areas where concern - areas where reaching general consensus has been difficult. Issues where consensus has been difficult. Of these three, could either of you characterize what's the biggest sticking point and we can maybe talk a little bit about the characteristics of the room and like what - who - this is an opportunity for us to have some straight talk, right? What do think we need to have straight talk out of those three issues?

Martin Silva Valent: Okay, I'm going to put my hat of NCSG here and um, sorry? I was chairing, I was neutral. Um, so I'm going to do it on being the least biased, but um, I do feel with one of the reasons that maybe we did heat up late is that some of these points, they originally or initially were thought to be very straightforward. Like, there was only one vision. It was always this, it was always that. The fact was this and a lot of those things that even a majority maybe felt that way, there was another part of the group in (unintelligible) in the NCSG part inside that group, we felt that - that a lot of those things weren't obvious and that evidence wasn't there. And if the evidence was there, it wasn't being published like maybe they knew it, but we didn't. So one of the causes of the delay was that a lot of the things that were being debated - they demanded some sort of evidence if you were to actually look through them and debate them.

If this was just something that you know, we are not going to really, really go through it, it looks good (unintelligible) we would have probably hit the deadline perfectly. I think that the working group took the work seriously in enough places and um, that meant that, you know, big - to the real substances of the statements that were being said. Um, and of course the groups - the working group's dynamics in general, they're not always the best. I mean, there's maybe people that are doing - that are not necessarily productive or that they're not constructive - but in general manners I think that a lot of these things that we are seeing, issues where consensus has been difficult to achieve is because the statements that were thought to be very straightforward and obvious weren't and data was not necessarily always demanded but statements were challenged and that's what caused this more difficult to achieve consensus than thought.

Christian Dawson:So Christian Dawson for the record. Just for clarity so if we take, for instance, type of marks that can be registered with the TMCH, that's an area in which, uh, there's a conflict going on, and there are individuals who are saying we don't have the evidence to support the direction that you want to take this. What evidence is being looked for?

Martin Silva Valent: (Unintelligible) it's even further. We didn't know exactly what sorts of statements were in the Trademark Clearinghouse because the database is secret, so we had to ask, in this case -- Deloitte, which was/is the provider of the Trademark Clearinghouse -- what they are doing. Can you tell us what are your procedures? What are - what things are you getting into so we can discuss exactly if we should be looking into this or not and afterwards it comes to discussion.

Should we allow, for instance, the second one? Should the matching rules be expanded? Trademark (unintelligible) was to have a sort of more broad expansion. They want one (unintelligible) to be protected. A small (unintelligible) and NCC was more thoughtful saying, "No, if we extend it too much, we might even protect things that are not in the trademark that the owner has and that may even affect other possible commerce." So that sort of debate inside was the things that I think we didn't expect in the beginning of the working group and they just come up.

Man 1:   Can I give a concrete example? And I don't - I don't mean to disagree with you.

Martin Silva Valent: Please do.

Man 1:   But I don't think it's binary. I don't think it's this side or that side. One of the things that we got caught up in in this space about what should be in the

Trademark Clearinghouse was geographic indications, right? And that was not binary, that was not one side saying you know, those should be in and the other side saying they should be out. Within the IPC we had at least three different points of view on that, um, on that. I'm of the no category, those should not be in -- they're not trademarks. Um, and so - but other people have a different point of view and probably has a lot to do with what your - what grows around you, right, where you live. So there were lots of point of views on that and we spent weeks on that subject, um, because some GIs had snuck their way into the Trademark Clearinghouse so there's just been little things like that that have cropped up that needed to be dealt with, right? We don't want to remain silent if they're in the TMCH and they shouldn't be nor do we want to leave the - leave it the way it is if they should be in there. They should be welcomed if they should be in there, it just depends on your view, right? So that took some time to get through that. There've been other things like that.

There's a couple - there's a pretty significant additional reason on some of these things which is you know, the Council has basically told the PDP working groups that these all have to be data driven except for oopsie, nobody collected any data, right? And so we have no data, none, zero. And so we're trying to go out and find data about the cost of the new gTLD program, to rights holders, we're trying to go out to find out why we have this big abandoned cart rate, right? Is it because the, you know, everybody that abandoned were cyber squatters and they got the notice that Kathy Kleiman and I wrote together and they panicked and quit? Or were they good people who got the notice that Kathy and I wrote together and they panicked and quit, right?

But that data was never collected, there was no exit survey like, "Why are you not buying this?" from the last round. So we are data poor and in an environment where the Council has basically said, "We need to make data

driven decisions." And so we're going out to try to find what data we can beyond our normal anecdotal opinions, which is, how we did it before for 20 years, right? And so that's slowing it down and that's taking some time.

I don't – I'm not worried if this takes a long time so long as it doesn't interfere with the other work that's coming out of the community, right? If Subsequent Procedures gets done and, you know, we're still contemplating the URS, maybe we should pause that part, push it to Phase 2, let Subsequent Procedures finish up, close down that PDP and let ICANN open up for business again, right? Because the store is closed until, you know, until Subsequent Procedures is done.

So that has more to do with the Council's traffic cop role I think than getting into the weeds on this and I do think we should encourage people to finish up though, right because it costs money to run a PDP. We don't want undo delays. But I also think that if it takes three weeks to sort out the geographic indications issue so that nobody feels run over one way or the other, then it takes three weeks.

Man: I thank you both for your additional clarity on this subject. One final question from me, and it gets to the data question there, the data poor issue. I didn't quite understand; it sounds like this is also an issue that is on the path to having a solution and can you give us more indication of that or whether it's something that you just simply need and you're going to stay data poor?

Paul McGrady: Yes, so no, actually, I'm sorry, I feel like I, you know, once again hijacked the session, I apologize. But, no, the staff right now has put out a call for proposals for surveys to try to answer some of these, you know, try to get to some of these questions and I think that link went out yesterday or the day before, maybe – has it been out for a while? No? Just sent out or…

((Crosstalk))

Paul McGrady: …it was sent out Monday, okay. So it was sent out on Monday. And the Council had a vote on, you know, essentially we're for that and here's the budget and all that good stuff. So we're moving to get as much data as we can. I think the big take away from this is that whenever – when we're done with this process we also need to be thinking about what data should we be collecting on an ongoing basis so that the next time we review these rights protection mechanisms after round 2 or round infinity, whenever we do this again, we're not all standing around saying, "But we have no data." Because now we know what questions we should have been asking over the last four years so we have to make sure that we ask them for the, you know, next time.

But, yes, we're doing our best to try to collect some data so that the decisions can be based upon that data not just based upon opinions of ICANN insiders which is our history. And importantly, not just based on whoever has the biggest crowd that day shouting the loudest, right?

Martin Silva Valent: Yes, that's (unintelligible) anecdotal data, I mean, it's – the ones – the anecdotes are percent maybe in the working group it's not enough. Maybe you have, yes, one registry or one arbitration thing giving their view. But some questions in the URS and we're going to have in the UDRP match more deep sense are questions of the daily implications or applications of these mechanisms.

And others, I agree with Paul, they are very simple that we should have probably in place like the Trademark Clearinghouse did need more data by default for instance. So that way at the beginning some – the question was how did – if we felt the working group was in functional enough and I agree

with Paul, I mean, most of these things are normal things to discuss – we did hit a few bump, we do have a few problems like any working group, we have maybe a (unintelligible) constructive person same things. But in general matters, I think the working group is moving forward. And again, the deadline is over the new gTLD round and that has been delayed as well so I don't see there a big issue or a big problem.

And just to clarify before, Paul is right, it's not binary, I was just trying to give you a very straightforward thing on maybe where – not besides what the issue was normally. Anyone else wants to ask something? (John), want to add anything else?

John McElwaine: I was just looking in the Adobe, I don't see anything else right now. And I don't have anything.

Martin Silva Valent: Okay. Then I'm going to wrap up this. And of course invite you to join the working group. I think the things we are going to deal from now on are going to be even more and more interesting even to you. Heather.

Heather Forrest: Thanks, Martin. Just put a bit of context around the comment that I made in the chat about the discussions that the GNSO Council had and this idea of consensus. So one of the things that we're thinking about doing is coming together in Puerto Rico as a community or encouraging us to come together as a community to talk about Section 3.6 of the PDP Working Group Guidelines which are Annex 1 of the GNSO Operating Procedures. That deals with how consensus is determined.

And I think we all came to the view as a group that we weren't quite sure of what – how 3.6 works so with that in mind let's say, Martin, to your points here and the points on the slide, I think we'd be in a better position to have

that discussion you know, to come back to some of these questions. So let's
not lose these questions. I'll leave that to you as both chair of this session and
councilor to make sure that these find their way back into that discussion.
Thanks.

Martin Silva Valent: We have these and others, these are just three we put there to move
around. Okay, if no one has any more questions I think we can – oh sorry,
Steve.

Steve DelBianco: Thanks. Steve DelBianco. I applauded Christian's suggestion that while we're
in this room in this town at this time let's go to the issues where consensus has
been very difficult. And so often that's because one side or another who has
the status quo in their favor doesn't want to yield what they feel is an
essentially right position. And that's a challenge to get that right especially
when the status quo has deference. And Robin Gross talked about the fact that
the Guidebook has the status quo, so you have to mount the evidence to
change it. And the same thing is true with regard to these RPMs.

So my question for you is the contracted parties, the ones who actually have to
implement the operational side. They're not here with us by design, but I'd be
interested to know the degree to which they're participating on this PDP. How
are they contributing to the back and forth that seems to occur between those
who want to protect commercial interests and customers versus those who feel
those protections go too far?

Martin Silva Valent: I don't want to give an answer too formal because (unintelligible) I'm not
qualified to do so is to say the Contracted Party House is doing this or doing
that. As Paul said, it's not always that binary to say so. I would say so they are
very active in the working group. I mean, I've seen them there and that they're
also very active on their positions. In general ways what I've seen is they don't

want to have burdensome mechanisms; they want a straightforward minimalistic as it can be. I don't know if maybe – I didn't follow this – I've never followed this from a CPH member that directly contrasted with my view. Maybe someone from the CSG want to address that especially? Or, yes.

Paul McGrady: So this goes to culture, right? I think that we're going to talk about capacity – increasing capacity tomorrow. When you look at this PDP and some of the others that we have, all these have over 100 people on them. There's no doubt that we have plenty of volunteer capacity. This goes to culture, right? Where we have to have – we have to find some way as a culture to convince people that when they join a PDP that they're there to compromise, that they're there to seek solutions and not just to filibuster and waste time, right?

And so I mean, I think that really is – and I think we need to empower the cochairs of these PDPs to identify the people who are there filibustering and wasting time and just trying to run the clock out either because they think running the clock out will keep them in the status quo that they have or if they run the clock out that the PDP will come under so much pressure from the rest of the community that one side will cave, right?

So I do think that there's a – there's just a cultural, there's a learning that needs to take place here. I think there's mentoring that people around this table need to do with new people who are coming in. I think, you know, PDP participation 101 – I think this is heretical but maybe everybody needs to earn their little certificate in PDP participation 101 before they join a PDP. You know, there are things that we can do to improve the culture.

And so getting specifically bogged down into these particular issues I think it'd be great to have a conversation about how the leadership around this table can help improve the culture by going back to its volunteer bases, each of us

doing it, right, and having this conversation; that it's about compromise, that it's about reaching conclusions.

You state your side, they state their side, the other side states their side, and the other four sides state their side, right, but somebody then needs to say, "Okay, we all fully understand each other's sides, we're not going to say that the reason why you have your opinion is because you're not smart or you're not educated or you're a bad person, we're not saying those things anymore. What we're going to do is say, okay, we've got six sides, how do we harmonize those into something that everybody can get along with?" Right?

And so that's the kind of cultural leadership that the leadership around this table, I think needs to take back. And so I'd rather have a conversation about how we're going to do that.

Martin Silva Valent: I agree. And as well is what sort of (unintelligible) do we give incentives to? I mean, the sense of –if we reach consensus in a much more (cultured) the fact that we have delays being disruptive or that maybe are not even reason the staff that in order to comment in a knowledgeable manner consensus is harder to achieve.

If you force people that have to study, be there, go to the calls, vote, not even vote but you know, express themselves in a way they are sort of accountable at least a cultural manner, in a social pressure way, then consensus is easier to generate. The fact that it's a little bit (unintelligible), I've seen this in every working group but we can – because of RPMs particularly – the fact that the consensus is always sort of continuous or organic among the subjects that allows to people to win by making too much noise or to stop maybe something that does have already consensus but just because one person has the time to be loud enough.

Other way around, just because someone has the power to overrun a minority that also happens, you know, and that's not also a good consensus dynamic. But there was someone there before? Yes, (John).

((Crosstalk))

John McElwaine: And I'll be very brief. I wanted to thank Christian for kicking this off because – and also to Heather's comment, these three issues weren't meant to really put down a marker on what we needed to solve today. We decided in preparing all this that we wanted to have this exact type of discussion come about. What are some solutions in terms of broadly that we can help this working group and others move forward. And also thanks to Paul.

And I'd be remiss if I didn't also mention in the chat room Claudio DiGangi had suggested that maybe one thing that the working groups could do is work in smaller sub teams, because you can really – working in a smaller group face to face add that sort of level of trust that it takes to float ideas into work together. So I thought that was a great idea that Claudio had, so turn it back over.

Martin Silva Valent: Louise.

Louise Hurrel: Thank you. Louise for the record. So I'm one of the volunteers Paul was talking about. And I think we've – I've been following the RPMs for a couple of months now and I think we have gone through some very intense periods where you won by shouting. And it was very unpleasant. But I think I'm a bit optimistic because I feel we have been – even though it has taken more time than what we first saw, I think we have been going towards our objectives.

However, I really think we worked with the sub teams for a while, with the trademark claims, and I feel that also like targets are purposes and it can be very valuable. However, still, the dynamics at the time that I was following the sub teams it was very much intense, very intense in the sense that it was very controversial and a lot of people screaming at each other so it wasn't that productive. But I really think that organizing and just doing sub teams so we can focus on specific tasks so we can try to at least have a more focused conversation, I think that is very valuable.

And another thing that definitely contributes – like in this process of seeing how we went until now I think the elaboration of the surveys and having these kind of discussions of critically assessing how we are dealing in getting this type of information because it's not only about gathering information, it's also about what are the methods that we are developing to gather this information and critically assessing what we're putting in place because that determines which kind of information we're going afterwards.

So maybe really abstract right now but just wanted to point that out, yes. Thanks.

Martin Silva Valent: Thanks, Louise. Martin for the record. Yes, and the comments on the subgroups, I also saw dynamics that were not necessarily efficient. For instance, as the group would work for a month or weeks, and when it came back with a draft to the general group, the general group would say, "We don't like it." And, you know, that just – the people that took the work to draft it and discuss and ask for more data and etcetera, maybe felt a bit frustrated that the group didn't appreciate enough the work.

So the subgroups is a very good idea to try to hard cast in a more efficient way but you also have to be careful that that subgroup doesn't hijack a specific

subject and the same way the subgroup doesn't – it doesn't get undermined and just turn away by the general group because then the leadership that actually takes the subgroup's success is going to feel why they do it for if eventually in three weeks and after enough hours of doing this, it will still be just overrun by the same people that it was trying to avoid in the first place to screw up the thing.

But I still think this is a good idea. I mean, the fact that you can generate drafts and that people can discuss on that draft is already an improvement to the chaotic organic thing of let's see what happens until we all agree.

Does anyone else have seen a specific good dynamics in working groups that you felt that we could use for other things? Yes, Susan.

Susan Kawaguchi: Susan Kawaguchi for the record. So this experience comes out of the RDS Working Group, which has its own challenges, similar, and so – and it – and to me it was a limited success. But when we started to talk about data elements and purposes we, again, got stuck. And then so we devised small teams but they could only be basically six or seven people and, you know, I always get confused on the numbers of how many different communities. But so there was one representative from each section of the community.

And then we tried to also put part of the leadership team on each of those teams so that we could help lead the work of the team. And I actually think in some ways it fostered some trust. I don't know how long lasting that trust is, but it – because I heard from several different people that because it was a small group and phone calls and working sessions that were just for that small group you could have an actual conversation and a discussion or a debate that, you know, and because one of the difficulties in the, you know, in the large PDP is you start off on one topic and 20 people put their hands up and by the

time you get to the 20th you've forgotten what the first part of the conversation was. So the back and forth was really critical I think.

And I know for – in just a few, you know, anecdotal incidents, people came to me later and went, I sort of went ah-ha, now I understand why this is so important to that side or that community, part of the community. So to me the small teams went really well and then we sort of stumbled again once we got back to the full PDP. So I don't have an answer for that. But I do think it's really worth working in small teams as long as you are completely representative of the whole community.

Everybody has to agree to – if they're going to sign onto a small team that they're going to participate, they're going to do their homework and they're going to show up on calls because if you just have two or three members doing the work then you've lost the ability for the community to be fully represented. So you know, it's – you know, it is a trust situation though because then you take – the small team takes that back to the larger PDP.

Martin Silva Valent: Sam.

Sam Lanfranco: Sam Lanfranco for the record. This might be my pet peeve because I'm an academic, but in addition to being a big fan of evidence-based analysis, I like it when the words men the same thing to everybody. And we had more than one episode in the RDS where we spent a lot of time arguing about what the word meant. And I – if I were king or queen or whatever I'd say let's build a glossary where we at least agree on the terms that we're going to work with. That may be a vain wish on the part of an academic but I wanted to put it on the record.

Martin Silva Valent: I would love to hear your opinions, especially Susan since the last intervention, regarding right now we have a model where the working groups have this very small leadership, which is the chairs and the cochairs, and the very vast like people like literally like a town. And then do you think that instead of having enough of small teams temporary we should have like a bigger leadership team but with much more power over the process? Like how do you see that sort of power balance? Of course, maintaining representation always as a (unintelligible).

Susan Kawaguchi: You know, I don't – I participated in RPM PDP but I don't – and I know that there's three chairs. Those are three cochairs is right?

Martin Silva Valent: Yes, and I wasn't thinking particularly in RPMs, it was a question in general dynamics of working groups.

Susan Kawaguchi: Okay. I do feel like you do need sort of a large leadership team. And I just resigned from the RDS Working Group leadership team just because priorities and, you know, bandwidth. But I'm still part of the PDP. I like the idea of having a chair and then vice chairs to back them up so we had four vice chairs. And we also made sure that in the – and it just sort of happened this way but it was also with some thought process that each of those chairs between the vice chairs and the chair – well there's three – sorry – three vice chairs and one chair – we all represented part of the GNSO.

So I was there on behalf of the CSG. We had a Registrar, we had a NCSG and then the chair was Registry. So the leadership team reflected the community was important. And that – but you could always use more and more people to lead a PDP. I think they're exhausting from a leadership's point of view along with individual contributors too. And so, you know, you wouldn't want to make too big of a leadership team, but I do feel like the more people that you

have that are invested and really want to see something move forward the better off the PDP is going to be.

Martin Silva Valent: Chris.

Christian Dawson: I've got a question that's going to start with a long comment. Christian Dawson for the record. So it sounds to me as though a lot of the things that you're faced with you're saying we have determined that we need to get a lot more evidence-based but we've also identified that there are pitfalls with heading down that road in the wrong way. There's some – Louise was talking about what I would say like it could be garbage in, garbage out or skewed data in and skewed data out and those are things that we need to look for.

We could be using different language, I heard from – these are very important things that we need to determine. So when you're asking about leadership and whether there are things there, I think back to data driven projects that seemed to have worked in the ICANN community I think about, you know, most of us know Jonathan Zuck, he's worked on data projects many times in the past and always been a fair arbiter of setting rules of the road and definitions that work for people going in. And a lot of leadership has gone into making sure that the – that the baseline of when those projects get accepted leads you to the right outcomes.

So if you're looking to answer a leadership question and the question I would pose to you is what for, and it sounds like there need to be some sort of leadership step up in the realm of preparing for the data that you're looking for.

Martin Silva Valent: Thanks. Anyone else wants to share a functional working group experience? Do we have anyone? Any experience?

Man: I'd say this has been very useful. I think we've got a lot that we can take back to the cochairs and hopefully try to implement to, you know, help this working group and hopefully some of our GNSO councilors can take this and work on a broader PDP education.

                        Nothing else? All right.

Martin Silva Valent: Something else? Anyone – one…

((Crosstalk))

Martin Silva Valent: …last chance. You have a question? All right.

Christian Dawson: Sorry. Card down.

Man: I've got nothing else. Thank you. Appreciate it.

                        END