ICANN
Transcription
Review of all Rights Protection Mechanisms (RPMs) PDP Working Group
Wednesday, 20 September 2017 at 17:00 UTC
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Woman 1:   All right, thank you so much. Well good morning, good afternoon and good
                  evening everyone. Welcome to the Review of All Right Protection
                  Mechanisms, RPMs and all gTLD, PDP Working Group call held on the 20
                  September 2017. In the interest of time there will be no roll call. Attendance
                  will be taken by the Adobe Connect room. If you're only on the audio bridge
                  could you please let yourself be known now?

(Claudio):   This is (Claudio).

Rebecca Tushnet: This is Rebecca Tushnet. I'm trying to get into the room but I don't know if
                  I've succeeded.

Woman 1:   And (Claudio) I have you noted as well.

(Claudio):   Thank you.

Woman 1:   Thank you. Hearing no more names I would like to remind all to please state
                  your name before speaking for transcription purposes. And please keep your

phones and microphones on mute when not speaking to avoid any background noise. And with this I'll turn it over to our cochair Kathy Kleiman.

Kathy Kleiman: This is Kathy Kleiman but I believe Phil Corwin is chairing today.

Phil Corwin: Yes, that is correct.

Woman 1: And I'll turn it over to Phil.

Phil Corwin: Thank you and thanks Kathy. And welcome work group members to this call today. For all members of the Jewish faith happy New Year, I know the New Year starts at sundown tonight. I'll also mention before we get into the substance of our work that this afternoon well my afternoon starting at 5:00 pm Eastern Time the GNSO Council will be holding its Monday meeting. And I and your other cochairs while of course I'll be on the call because I'm on council but your other cochairs will be on as well because one of the first orders of business for council today is to consider approval of the motion we filed ten days ago our data collection request including a request from monetary support for professional survey taking to complete some of the data collection tasks that were identified by the Sunrise Registration and Trademark Claims working teams. So that is coming up today. We're hopeful for a positive council vote on that and we'll keep you all apprised.

And I'm good. I'm glad to see now that Mr. McGrady is on because while I'm chairing today's call he's going to have a lead role along with other members of the sub team that looked at questions on private protections. They completed their work next Friday. And we're going to be reviewing the revised and modified list of questions that they're bringing back to the full working group today to get working group reaction.

So with that I would ask and I see Paul is in the chat room and on the phone and that's good. Can staff put up the document produced by that sub team which will be the main focus of today's call? And while we're doing that I note

that Mary in the chat room has noted that the council meeting is audio cast live. That anyone who wishes to can listen to that. You don't have to be a councilor to endure two hours of policy minutia. So Mary has provided the link and in four hours just under four hours you want to listen in on that call and in particular see the presentation and disposition of that data collection motion you're welcome to join and in the spirit of ICANN transparency.

So with that we now have the document from the sub team there. We've got some background noise. If you're not speaking please mute your phones especially if your speakers are on. And I guess I would ask - I participated I believe in just about all the calls of the sub team but I would pass the baton to Paul McGrady who graciously offered to chair it and let him present this document for your consideration and discussion. So Paul can I ask you to chime in now?

Paul McGrady: Thanks Phil, happy to do so.

Phil Corwin: Thank you Paul.

Paul McGrady: So, can you hear me?

Phil Corwin: Hear you very well.

Paul McGrady: Okay great. Thanks (unintelligible) happy to jump in here and (unintelligible). The - as a preliminary matter there is a preliminary note I'm - I think perhaps staff drafted that note. I apologize if I've seen it before but it's not ringing a bell. But I just (unintelligible) speaking I don't know that there's anything…

Phil Corwin: Paul, this is Phil. You're breaking up somewhat. I don't know if you're on a speaker or I don't know what you're using as a mic but we're having - you're there and then you're gone for a moment then back.

Paul McGrady: Okay, see if I can get into a better spot.

Phil Corwin: Okay.

Paul McGrady: Can you - is that any better?

Phil Corwin: That seems to be better Paul. And Mary in the chat has offered to discuss the preamble if you'd like to let her do that.

Paul McGrady: Yes that would be lovely. So I will turn it over to Mary. Mary, please go ahead.

Mary Wong: Thanks very much Phil and Paul and everyone. This is Mary from staff. So just a brief note on what is labeled as the preliminary note. If you look back at the original set of questions there was actually a preliminary note that was from the cochairs. And we have retained much of that information in this version because it does provide the backdrop to what the sub team is doing.

                  The only addition to the original note is the paragraph and that is something to note that the sub team had deleted a number of questions but those have been archived as sub team requests on the working group wiki. And so we provided a link there in the third paragraph. Other than that it's merely an introductory note that retains quite a lot of the background from the original cochairs note. Thanks Phil and Paul.

Paul McGrady: Thanks Mary, that's very helpful. And so we will let the preamble speak for itself. Since it was not the subject necessarily of back and forth by the team but I think Mary has done a great job explaining that part of the document. Phil, I see your hands up. Please go ahead.

Phil Corwin: Yes Paul and this will be my last interruption. I just wanted to comment in regard to that last paragraph to point out that these - all of these questions were not original charter questions. The cochairs thought it was important for our overall task to understand what private sector additional RPMs are out

there and available to trademark holders and we had proposed some questions on that.

The sub team in its discretion and wisdom has reformulated some of the questions and rejected others. And that's so far as this cochair is concerned that's the way it should work. We are here as cochairs to promote the efficient administration of this working group not to dictate any particular approach or outcome. And we're gratified at least I'm gratified that the sub team thought that many of these questions in somewhat modified form were worth pursuing. So I'll stop there and turn it back to you.

Paul McGrady: Thanks Phil. So I think we'll just walk through these questions and I think we if people have questions about specific questions we can open a queue on those. I don't think that purpose of today's call is to necessarily open up renegotiation on the questions. I think that was the point of the sub team and if anything needs to be reopened up later or whatever I'll leave that to the cochairs. But I'm happy to try to answer any questions that people have about these and may call upon my sub team mates to help me out if I get in a jam.

So the first question, how and to what extent does use of Protected Marks List easy blocking services affect the utilization of other RPMs especially Sunrise Registrations? Note the sub team considered that this - the overarching issue of the topic of our additional marketplaces RPM and as a result that moved up that was further down the document originally and has made its way to the very first spot. Any questions on this question? George, I see your hand. Please go ahead.

George Kirikos: George Kirikos for the transcript. Yes I'm not sure if it's the right time now are we going to have a separate call to discuss the data sources for the questions to answer these questions or should I bring that up right now?

Paul McGrady: Thanks George. I don't know the answer to that. I'm wondering perhaps if Phil or Mary could jump in here. Mary, your hand is up. Please go ahead.

Phil Corwin: This is Phil I'll let staff speak first and see if I need to add anything.

Paul McGrady: Thanks Phil.

Mary Wong: Thanks Paul, and Phil, and thanks George for the question. This is Mary from staff. The sub team did not specifically list a well list a list of data sources or specific tasks to be gathered. So from the staff perspective what could happen is following the working group's review of these questions and perhaps even concurrent with your discussion starting today to the extent that the group agrees that certain questions require some data we can identify what that data is and perhaps also the sources.

                  We would then probably add that to the list of data gathering tasks that we have compiled. At this point we don't know as yet what that is what it means. And we certainly don't know if this will require, you know, additional budget and resources on top of the request that was just submitted to the council noting of course that, that request was specific to Sunrise and Trademark Claims. I hope that helps.

George Kirikos: George Kirikos here. Can I respond to that?

Paul McGrady: Sure George, please go ahead

George Kirikos: Yes, because if we're going to answer that question we're going to need for - as a deliverable a list of all of the Protected Marks List programs for example the Donuts, Protected Marks List for all of the registries in order to be able to figure out which registries had those measures in effective and which ones didn't and also that matrix, or spreadsheet, or whatever that's the deliverable we'll also have to carefully take into account when that program was in effect.

Like for example Donuts has their DPML but they later implemented it for TLDs that they acquired for example the .Irish screen. I'll send a link in the chat room. And so to the extent that Irish is now .Irish is now covered by DPML we would have to carefully take into account whether it had that programing effect at the time of the sunrise program sorry at the time the sunrise period for that particular TLD.

And also if we're going to be getting statistics on actual DPML registration I'm not sure if the registry operator is going to share the statistics. But if we do we would have to get them in a time series format because for example let's say a TLD launched in 2014 there would have been a different number of strings that were covered by a Protected Marks List compared to say 2017 depending on, you know, the marketing of the program and the increased number of TLDs that were covered, et cetera. So we need to be, you know, very careful in terms of a data collection to be able to answer this question but I do agree that question number one is a very valid question so my only concern is about the data collection. Thank you.

Paul McGrady: Thank you George. Any other questions or comments on Question Number 1? Last call for hands up in the chat or - okay? All right seeing none let's move on to Question Number 2, Question Number 2 has some subparts. So Question Number 2 what information on the following aspects of the operation of the Trademark Clearinghouse is available and where can it be found, 2A ancillary services offered by the Trademark Clearinghouse which are not mandated by the ITN, RPMs including but not limited to the post 90 days ongoing notification service and other services and support other registry specific offerings. And B with whom and what arrangements does the Trademark Clearinghouse share data and for what non-mandated RPM purposes?

I will - well perhaps I should read the little explanation underneath and considering this question to the working group should take into account and avoid duplicating other work undertaken by the working group. In reviewing

the Trademark Clearinghouse the working group should also distinguish between services related to the Trademark Clearinghouse data base and those provided by the Trademark Clearinghouse validator. Okay. So I will open a queue on questions or comments about Question Number 2. Michael Graham, I see your hand. Please go ahead.

Michael Graham: Yes, Michael Graham for the record. I was just wondering about the use of the term non-mandated whether we should have that limitation I suppose that cues into the key note or the footnote. But, you know, I'd rather if we're asking that why not have the complete list so that, you know, then we can determine what's non-mandated otherwise we leave that open for a discussion.

Paul McGrady: Thanks Michael. I will see if anybody would like to reply to that or make their own comment? All right seeing no hands I think that the reason why it's written the way it is, is because our remit as a sub team was pretty narrow looking only at these additional marketplace protections and therefore the carve out away from mandated versus additional marketplace.

And so I think that's where we - why we ended up where we ended up. If the working group wants to fiddle with this by, you know, by all means, you know, I'll - that's up to the working group and the cochairs who are leading it. But that's just by way of explanation that's why we ended up having what we ended up - we had. Susan Payne says that, Paul yes I agree. I saw Susan's hand go up briefly and then down so I must have gotten the answer right. That's good.

All right any other questions or comments about Question Number 2? Okay seeing none I will move on then to Question Number 3, are registry operators relying on the results of the Trademark Clearinghouse validation services or accessing the Trademark Clearinghouse database to provide additional marketplace RPMs and if so in what ways? Is there language in the current adopted TMCH policy or related documents that expressly permits, prohibits

or otherwise addresses such use by registry operators? Are registry operators able to provide the same or similar additional marketplace RPMs without relying on a TMCH validation or access to the TMCH database? Will there be an increasing cost if so what will this be to stakeholders along the value chain, i.e., brand owners, registries, registrars of registrants.

And there is a sub team explanatory note. Again some of these explanatory notes were not in the subject of back and forth and so I'm operating under the assumption that these were staff comments but if they weren't staff comments if staff could correct me? I'll read the explanatory note. The sub team's discussion of this question resulted in an agreement amongst most sub team members that the answer to this question as to whether and how some registry operators are relying on TMCH validation services and/or accessing the TMCH database in order to provide additional marketplace for RPMs is yes. This is based on information provided by some registry operator members of the sub team as well as registry responses to a poll conducted by the working group in December of 2016.

The poll questions included the following, are you accessing data and records in the TMCH for purposes other than obtaining information necessary for the provision of sunrise claim services, sunrise and claims services in accordance with ICANN's user manuals and technical requirements? And two are you using any capabilities of the TMCH other than for sunrise and TM trademark claims notices?

Two registries PIR and ASNIC responded no to both questions while Donuts responded yes to both. For one it was to verify domains Protected Marks List DPLM blocked request and for two it was to leverage S&D files as qualifiers for the DPML service. Similarly the sub team came to a similar conclusion in relation to the question about cost increases where a registry operator provides additional marketplace RPMs without relying on the TMCH validation services or accessing the TMCH database.

The sub team believes that even if the answer to these initial questions are yes, the information and any additional information input that may be provided as part of the responses will be useful to the working group. So that's a mouthful. I agree with this comment and, you know, as an explanation of what we we're up to it was sort of, you know, the - we the bottom line is we know the answer to some of these questions are yes but we're still trying to get to some of the information that flows from the simple, you know, binary yes or no.

So that's a whole lot of Question Number 3 and a whole lot of explanation of Question Number 3 so I can open up the floor here for questions or comments on Question Number 3? Okay I don't see any hands. I will say that this is where I jinx myself. Oh well here's a hand. Okay J. Scott I see your hand, please go ahead.

J. Scott Evans: Sure this is J. Scott Evans for the record. And I put it into the chat box but it didn't get picked up. I'm not sure what relevance this information has to determining the efficacy of the current RPMs. I don't understand how it provides us with information to look at the efficacy of the RPMs. I can see with question one of course when you're looking at it and you're saying okay when an additional marketplace solution was offered that is different from what is mandated how did that affect the use of the other RPMs?

I think that is a valid question. In other words are there solutions out there that could offer something different that would make the other ones not as necessary or not as attractive to the users of those services? I don't understand why we're asking who gets what information from where. I don't understand how that affects the efficacy of the UDRP, or the URS, or the sunrise registrations, I don't see how it affects that. Maybe it's because I'm not a technical person I'm missing a point that I just don't understand that I understand that.

Paul McGrady: Okay, thank you J. Scott. Susan, I see your hands up. Please come in.

Susan Payne: Yes, thanks I thought I - Susan Payne sorry. Yes to respond to you J. Scott I think this is one that we did talk about quite a lot in the subgroup. And I think we were somewhat split on the necessity of including this question or not hence the lengthy explanation because we were trying to capture some of the things that we talked about and to ensure that we captured the views of the number in the agreement that we kind of we already know the answer to these things.

But, you know, in so far as it's useful it goes to utilization of the TMCH or not. My personal view is it's not a great (unintelligible) on it. I mean it's use of the TMCH but it's clear to me that if someone wanted to offer an additional marketplace RPM and the TMCH didn't exist you could still do it. Obviously you'd just have to validate in some other way. But for what it's worth it does identify that there are uses of the TMCH that are not the mandated Sunrise Claims provisions. I don't know if that's helpful.

Paul McGrady: Thanks Susan. Phil, I see your hands up. Please go ahead.

Phil Corwin: Yes, just to add to what Susan said, as she noted this was discussed at length by the sub team. The sub team ultimately decided to leave this question in, in this form not to describe it as they did in some of the other questions. And the primary purpose is to understand the relationship between the private protections and data provided by the TMCH. It's mostly a greater understanding. Questions probably not the most critical one here but I would urge that as Paul said that we would not debate further changing or eliminating these questions on this call but talk about the next steps for pursuing them. Thank you.

Paul McGrady: Thanks Phil. I saw in the chat that there was a question from Jon Nevett about whether or not we should assume that the explanatory notes will not be included when the questionnaire goes out. That's my understanding Jon. And I think Phil would agree with that in the chat. You know, these explanatory

notes were not, you know, they weren't haggled over like all the questions were on the call.

So that I think that they are for the benefit of this working group. So I don't - I wouldn't expect to see those in this survey that goes out. Phil, your hand was - okay your hand is down. Okay, let's keep - before we move on to Question Number 4 any last questions or concerns about Question Number 3? Okay Question Number 4, what are each registry operators rules for each type of additional marketplace RPM it offers noting that some New gTLD registry operators offer more than one version of a Protected Marks List service?

And then there's some sub points here. Where a trademark holder uses a Protected Marks List service, e.g., a blocking service for one class of goods or services are they able to block another rights holder who holds the same trademark but for a different class - for different classes of goods or services? Second bullet (unintelligible) registry operators impose as a condition for using protective marks list, e.g., blocking services for example do they all use the valid S&D file contained in the TMCH database? And then the final bullet how much and what manner of abuse does each registry operator make of data from the TMCH or the trademark holder in providing its additional marketplace RPMs?

So, you know, Question 4 had quite a few parts. I will say that reading through these questions again after having been away from them for a week is sort of like visiting an old friend or going to a high school reunion. They're very familiar but at the same time when you see them in the fresh light they certainly, you know, they're interesting and they make you think through all this stuff again. All right, so I will open a queue on Question 4, any questions or concerns, comments about Question Number 4? Last call questions or concerns about Question Number 4?

Okay, all right well then moving on to Question Number 5, for registry operators that extended the trademark claim service beyond the required 90

days and for registrars who operate - who operated the extended service what has been their experience in terms of the exact match is generated beyond the mandatory period for example in terms of registration volume and numbers of exact matches? Any questions or comments, concerns about Question Number 5? Okay, oh here's a hand. Hi George, I see your hand. Please go ahead.

George Kirikos: George Kirikos again. I noticed the term exact matches. I noticed that Donuts had DPML Plus which provided expanded matches. So I was curious whether that's going to be captured somewhere in our questions? Thank you.

Paul McGrady: Thanks George. It was not something that the sub team discussed I don't believe. If I'm wrong I'd encourage a sub team member to raise their hand and correct me. And so this particular question only deals with exactly the question of exact matches. I see that George has put a link to the DPML Plus description in the chat, thank you George. Mary says yes Paul that is correct. The sub team focused only on - focused on exact matches only. All right, Phil I see your hand is up. Please go ahead.

Phil Corwin: Thank you Paul. Just too briefly comment the reason the question is framed that way is because for extended claim services at some registries the only matches they would be aware of would be exact matches. There is no - they wouldn't be aware if there were any inexact matches non-exact matches based on any number of different categories, you know, missing digits, additional, you know, letters whatever. So that's the only data they would have. Thank you.

Paul McGrady: Thank you Phil for that clarification. And I see another clarification in the comment which is from Jon Nevett, Question Number 5 is for claims. No, in other words the exact match question here relates to the Trademark Claim service extended beyond the 90 days. Question Number 5 does not address Protected Marks Lists. J. Scott says Question 5 deals with claim services. Question 4 deals with DPML and speaks to the fact that there were variants

of the DPMLs. All right, any other questions or comment on Question Number 5?

Okay, seeing none we'll move on then to Question Number 6, what role does the TMCH provider front end play in servicing the additional marketplace RPMs? For example what services do you provide to ICANN registry operators? Does the TMCH use any data from the clearinghouse to provide these services if so please explain? And how are you compensated for the provision of these services? Any questions, concerns, comments about Question Number 6?

We're getting some background noise from someone whose phone is not on mute. Any questions, concerns opening a queue hands up going once, going twice want to make sure everybody has a chance to speak to it. Okay, well that takes us through the question set which and in I think we set a land speed record. So I will ask Phil, what's next?

Phil Corwin: Thank you Paul noting that your sub team did such an excellent job that they were barely any questions or comments about these - final form of these questions. I think the next step and I welcome any staff input on this is we've got this list of questions now, is the working group comfortable with deciding whether they're in a good enough form to send to the registry operators who offer private services, the registers, and to Deloitte as applicable for each question and start searching for answers? And whether we need to do anything additional in terms of data gathering in response to these questions, so let me see if staff has any comment on that and then open that for discussion. This is a very quiet group today. I see Mary typing no comment from staff. We agree with Phil. Michael Graham, go ahead.

Michael Graham: Yes Phil, Michael Graham for the record. I was just wondering if there are any representatives of any of the registries on this call that might respond to that question whether or not this is in a form that they believe they would be able to answer to? That would be helpful.

Phil Corwin: Okay, not to single anyone out but I do see Jon Nevett on the call. I guess he wants to comment. He was a very active member of the sub team and of course Donuts is one of the principal new TLD registry operators offering additional protections.

Michael Graham: Phil, it's Michael Graham again. I see that Jon, I think, has answered in the chat, I'm fine with it - as is. So maybe that's his answer.

Phil Corwin: Okay, thank you. So at least the gentleman from Donuts is fine with the current form of these questions and with moving on to sending them out, you know, depending on the question to the proper parties for responses. My cochair Kathy Kleiman, Kathy?

Kathy Kleiman: Hi, thanks Phil. This is Kathy Kleiman speaking in my personal capacity. And wondering if Question 4 first bullet point a question about trademark owners who might - whether there are additional rights holders who might be blocked by something in a Protected Marks List. Here's the question whether we might want to include an outreach also we have a questionnaire that will be going out on trademark claims and sunrise to trademark owners generally. Do we want to ask this question as well to them has - have people been blocked when they have trademarks but yet yes is there some issue? This might be one to go out to the general public or at least to the trademark public as well. Thanks.

Phil Corwin: Okay, I think that's a useful suggestion Kathy. Do others have a response to that? I see Greg's hand up. Go ahead Greg.

Greg Shatan: Hi. It's Greg Shatan for the record. And Kathy's question caused me to reread this first bullet point. And I guess I'm just asking more for a point of information. Is it possible to use a Protected Marks list for a particular class of goods or services or is it - are they only for general blocks? This question seems to presume that there is a mechanism for a trademark holder to use a

Protected Marks list service on a class of goods basis. Or am I - either that or the question is very in artfully phrased and it's going back to whether the marks holder has a registration that's only in one class as opposed to three or seven or some other number of classes. But it doesn't seem like the mark service itself offers as to the best of my knowledge such a grant for service. Thanks.

Phil Corwin: Thanks Greg. This is Phil. Let me start to attempt to respond to that question but I welcome input from folks who are on the sub team. I think maybe the way this is worked - worded is not quite as clear as it should be where I think the presumption is that a trademark - a registered trademark block certain group of - is for a certain group of goods and services. And when that - a particular market holder registers that list it might be blocking someone who uses the same word mark for totally different goods and services. But I think the first part of the question what are the rules would tell us whether any registry operator offers such specific vertical protections or whether the Protected Marks service is simply block a term across all of the registry operators TLDs regardless of goods and services. But so I think the answer would come but perhaps the question despite all the work on it might have been worded just a little bit in a more clear fashion. And Paul I see your hand up. You probably want to jump in on this, thanks.

Paul McGrady: Thanks Phil. Yes so a question like this that's worded by committee rather than worded by only one stakeholder certainly may not be as clear as if, you know, as if one person were holding the pen. The idea here is of course we're seeking information from the additional marketplace protection providers as to whether a block based upon that particular trademark registration which inherently has - most of them have not all the interaction classes in them would necessarily block forever another legitimate trademark holder who may have the same trademark the same element rather covering, you know, different goods or services so two competing trademarks like Delta Faucet or Delta Airlines.

I think as in artfully worded as this question is I think the providers of blocking lists are likely to get it and know what's being asked here. So I'm a little hesitant to reopen the question but specifically that's sort of the idea of what we were going for because, you know, marks like Delta and Delta, you know, do exist out there in the marketplace together, you know, Apple phones and Apple vacations -- two well-known Apples. And so that's what we're trying to get at here. As far as Kathy's suggestion that this also be sent to trademark - the trademark community I don't have any particular objection of that but I think that we'll get the most useful responses from the physician marketplace providers themselves because they're the ones who write their own rules. Thanks.

Phil Corwin: Well I guess the ball's back in my court. So there seems to be general agreement that these questions were not perfectly worded are in good enough shape to go out to the parties they should go to. I don't know that the sub team really discussed who the target was for these questions although on some it seems self-evident. And the majority of them would seem to go to the registry operators offering private services in some instances to Deloitte for the extended services offered by the clearinghouse and perhaps in some cases to users of these protections, particularly trademark owners. And we can work with the trade groups for them and the IPC on getting that out with other groups within ICANN.

So I guess I'm wondering and I raise the question here that I would think the next step would be for the co-chairs working with staff to now that the questions have been vetted with the full working group and seem to have met approval to discuss with staff who the targets are for these questions for each one of them and report back to the working group with that determination on the part of staff with co-chairs and see if everyone's okay with that and then to get them out as soon as possible. I guess so far we would also discuss whether there's any data relating to these that we might need other sources for though I'm not sure any is jumping out at me right now. So that's my statement on next steps. Any comments or questions on that about what the

next step is for using these questions and getting back some answers which we hope will provide with some useful data and information?

Susan Payne: Phil hi. It's Susan. I'm not near Adobe. Can I get in the queue please?

Phil Corwin: Susan not only can you get in the queue but you're number one online because no one has their hand up. Go ahead.

Susan Payne: Lovely. Yes I was just going to say I mean I think these questions, some of these questions yes may need to go out to people to answer. But I do think that there - some of this information is available. I'm thinking of the picture of what are the rules to the various additional marketplace RPMs? I mean it seems to me that registry operators who offering one of those services do publish their rules. And so I'm not sure from my perspective I don't think we need to go and ask Donuts what their rules are. I think we can find their rules and we can read them.

And I - honestly I think that's probably a job that we should do. I'm not sure whose job it is but I think it's one we could do. And it would only be if we had questions after having read those rules because we - something is not clear to us that we would need to be going to Donuts and asking them a question. So does that make sense?

Phil Corwin: Well yes Susan from my personal perspective that does make sense and I think certainly I was thinking I've seen a question in the chat where the registries operators respond and I was thinking while these are in many cases these are services they offer in the marketplace trying to attract customers for these additional services. They describe them on their Web sites in pretty good detail. One could probably read those descriptions of the services and costs and have one or two additional follow-up questions. But yes I think a lot of this can just be collected by staff, you know, analyzed and reported back to the co-chairs of the full working group.

Having said that I think we still would want to give the registry operators and us at Deloitte the opportunity to see the questions we're asking and to provide us with additional comments with any additional useful information they think would be helpful to this working group's consideration of the data we collect. And I see Paul McGrady's hand up and then George's so go ahead Paul.

Paul McGrady: Thanks Phil. So I think that there is a good possibility that the providers of these additional marketplace protections will respond to these questions. As Phil noted perhaps what they will do for some of them not all of them is to supplement what we could find out on our own by visiting Web sites and looking at rules and things like that. I do think it behooves the additional marketplace providers to provide robust responses to this very modest list of questions because at the end of the day if their additional marketplace protections are doing something in the market that would necessarily go away if what they're doing becomes a mandated RPM then they, you know, they may have a real-life marketplace bottom line reason to explain what they're up to and how that fits into the greater RPM ecosystem. So I'm expecting a pretty good, you know, response rate on this stuff. Thanks.

Phil Corwin: Thanks Paul and as I said I'm pretty much in agreement with you. I don't know why they would want to share that information and to a large extent it's already available on their Web site. I'm going to call on George and then followed by Mary who's had her hand up for a while. Go ahead George.

George Kirikos: George Kirikos for the transcript. Yes I wanted to echo what Paul just said about hoping that the registry operators will be the ones that provide the data because it would be qualitatively much higher than if staff just did it on an ad hoc basis visiting the Web site to the providers. Another consideration is that those policies have evolved over time and so just doing a snapshot in September 2017 of what the current policy is will not capture how those policies have evolved since 2014. So we want to know not just the current status but we want to know how they were in 2014, 2015 and so on in order

to get the complete picture of how those RPMs have existed and how they are today. Thank you.

Phil Corwin: Thanks George. Go ahead Mary.

Mary Wong: Thanks Phil. This is Mary from staff. I just raised my hand to actually agree with your suggestion on the way forward Phil. So what staff can take as an action item from this call is to look at each of these questions and to the extent on Web sites and so forth of the different registry operators or the TMCH operator that there is that information we can compile the links. We can also go through the information and prepare a summary for the working group.

Phil Corwin: Well that's great Mary. And as I said I think that's a necessary first step. It doesn't stop us from asking follow-up questions once we review and what's technically available regarding these services. And as I just stated I think we should certainly offer and some questions may want to ask additional follow-up questions to the registry operators. I do recognize that there's some areas we might - some of us might have curiosity about that they'll regard as proprietary data that they don't want to share but certainly about the elements of what they offer and what the cost is. I would think that's pretty public information.

So far as the impact of using the services on a decision to forgo or use less of other mandated RPMs that's something we're going to have to look to the users of the systems, the trademark owners for feedback on.

(Claudio): Hey Phil it's (Claudio). Can I jump in?

Phil Corwin: Yes you may (Claudio) and your first in line. Go ahead.

(Claudio): Yes just it's a really sort of kind of a thought that in conjunction with what Susan was saying about information that's out there. And it just reminded me

about the staff report that cited that there were 30,000 sunrise registrations in 2014 I believe it was. And so I thought if staff is able to compile that for 2014 that they might be able to do that for the additional years. And that might shed a lot of light on some of these issues. But I just was curious if I'm correct in that assumption. I'm not sure if Mary just could speak to that but I was curious if that is perhaps something staff would be able to do? Thank you.

Phil Corwin: Well thank you (Claudio) and in fact Mary has her hand up so I'm going to turn the - to her and see what her response is.

Mary Wong: Thanks Phil. Thanks (Claudio). This is Mary from staff. Actually (Claudio) could ask you to repeat what the data information was? I think you're referring to the staff paper that as you said we started doing in 2014. And there was a draft that was published for public comment in I think February 2015 with the final version out in September that year. So I'm familiar with what's in that document but I missed what you said about the specific information that you've been asking us to update. Thanks.

(Claudio): Yes sure so yes I think it is that document. I found it on one of the wikis but if it sounds like that is the document. And it's - within that document cited that there were over 30,000 roughly 30,500 sunrise transactions that it housed it was described in that document in 2014. So that was the data point that I'm referring to.

Mary Wong: Phil this is Mary. I can follow-up on that.

Phil Corwin: Yes please do. Go ahead.

Mary Wong: (Claudio) yes that's correct and we do have the updated information. We do get reports from registries and registrars with numbers. And hopefully what we actually have already started to compile is what you're looking for. We actually have started looking at the numbers of the sunrise registrations since that time.

And one of the things that staff is doing is putting together some graphs and tables and spreadsheets for this working group that will have numbers on, you know, the dates of the sunrise, which type will gTLD operator offer start or end date sunrise as well as sunrise registration numbers. So hopefully we'll have at least that data ready for everyone in a couple of weeks if not sooner. And you can check on that and see if there's anything else that you are thinking about and that's not there we can try and get it. Thank you.

Phil Corwin: Okay thanks Mary for that very useful follow-up. Let me - we may be able to end early today. Let me just comment though on some stuff that's been in the chat room. There was some back and forth discussion about whether or not any of these private services offered by registry operators went through the registry service evaluation policy the so called RSEP. There was originally a question proposed by the co-chairs that went to that. The sub team decided that was not within the mandate under a charter. And that's been archived so that's where that stands now. There was also a comment about whether any of this might lead to a suggestion that ICANN mandate the offering of private services. My guess would be reviving the issue of a blocking list as a required RPM. That's not a question here. It's really not a data gathering question.

It's a - in my personal view it's a policy recommendation I think whether the working group wanted to discuss mandating some type of blocking services a one-size-fits-all. That's up to the working group after we review I think what's out there in the marketplace and how it's impacting the mandated RPMs and how useful trademark owners are finding this. But I don't think that's a question that needs to be raised at this point in time but that's open for discussion if anybody wants to discuss it further but I think it's premature to even think about that right now.

All right well we have gone through the questions. We've discussed the next steps in terms of staff work and staff consultation with the co-chairs and the co-chairs then getting back to the working group. And I don't know that the

floor is still open. I see George has his hand up but we may be nearing the end of today's call in terms of discussing the report back of the sub team that's been framing these questions. So go ahead George.

George Kirikos: George Kirikos again for the transcript. Yes just a general observation. All these questions appear to be from the perspective of either right holders or the registry operators. And what seems to be missing is any input from registrants themselves who are not rights holders. And I think that's an important consideration because that helps to look at the impact in terms of costs on the public of these additional RPMs in terms of the inability to register these domain names that might be dictionary words or acronyms or other commonly used terms that should be available to anybody. So is that something that we intend to look at or we in - looking at it only indirectly as it affects sunrise because there's obviously no input in these questions from the public with regards to how these RPMs affect them. Thank you.

Phil Corwin: George let me ask for clarification and then I see Paul had his hand up. Are you thinking that there's some additional question here that should be asked that isn't on the list or are you suggesting that when we analyze the information we get back we should keep that perspective in mind and be open to having it raised within the working group? So could you respond to that and then we've got a - let me call on George to just respond quickly to my query and then Paul and Kathy have their hands up.

George Kirikos: George Kirikos here. Well it's a question of timing. Do we want to do it now or do we want to do it later? So I leave that up to the working group but I think it's a very important consideration to consider the impact of - on registrants of these additional RPMs. And so if we're only going to ask the registry operators and the trademark holders we're obviously not capturing that input at this date. We might want to do it at this stage, capture that additional input or might want to wait till later. It's up to the group. My preference would be to capture it now but I'm sure others have different views on that. Thank you.

Susan Payne: Phil can I get in the queue behind Kathy as well please? It's Susan?

Phil Corwin: Yes Paul's next then Kathy and then you Susan. Go ahead Paul.

Paul McGrady: Thanks Phil. So just in response to George's question the sub team that
                 developed these questions had a narrow remit about what we were going to
                 be doing. And we were going to be gathering fact-based answers based upon
                 fact-based questions that had to do with sort of diagnosing where the
                 additional marketplace RPMs sit within the RPM ecosystem. We were not
                 undertaking qualitative analysis. We're developing questions about qualitative
                 analysis in relationship to how specific end-user registrants are affected.

                 There was a group within the sub team that wanted to cast the net more
                 broadly. But the sub team asked the co-chairs to provide direction on that
                 point and our narrow agreement was confirmed. So to the extent that there
                 are questions like that, you know they may be asked in some manner by this
                 working group. But that was not the - not what we were told to do as a
                 working group. And then I think secondly and I'm sure Kathy will confirm this
                 but there are people whose constituencies are charted to look after
                 registrants. And we certainly had robust participation from anybody that
                 wanted to participate in this working group team including those whose
                 charters deal with registrant issues. So it's not like folks representing
                 registrant issues were excluded. I think the - this - the issue that George is
                 raising has to do with the remit of the working group rather than, you know,
                 non-representation. Thanks.

Phil Corwin: Okay thank you Paul. Kathy and then Susan's waiting after you but Kathy
                 first.

Kathy Kleiman: Okay so this is Kathy again in my personal capacity and I will share within
                 many of the sub team calls, not all of them but many of them. Okay to
                 George's question is there and, you know, he makes a good point. We're
                 talking to registry operators. We're talking to providers, we're talking to

trademark owners. You know, should we be talking to registrants? And so would this address part of yours George if we looked at for first bullet point, the same one we just expanded to go to trademark owners, should we perhaps seek to add this to the registrant survey as well that's already going out then ask if people, you know, if there are any, you know, if there's any information people want to share with us about how blocking services are impacting their ability to register domain names they consider to be, you know, that they're trying to register so that we're kind of hitting the whole community for questions, similar question might apply also to the extension of the trademark claims and some of the notices that are going out, you know, that there may be a registrant impact and perhaps we should grab it as part of the data gathering exercise that Paul just shared.

But I want to make sure that I let everybody know with my cochair hat on my thanks to the sub team which worked very hard over many weeks under great leadership from Paul. So thanks to the sub team for reporting back today to the Working Group. But and I see that George says sure that would be fine Kathy. George you might want to come back in the queue to talk about it. Thanks.

Phil Corwin: Okay thank you Kathy and Susan is next in queue followed by Greg. And for those who have finished talking if you can drop your hands that'd be good.

Susan Payne: Hi, thanks. It's Susan. I don't think anyone will be surprised if I say that I'm completely opposed to that suggestion that Kathy just made. I think it's important to bear in mind what the charter for this working group, this PDP Working Group is. And it's to review the ICANN mandated RPMs. It's not to review and pass judgment on anything extra that a registry operator has chosen to do in order to be a good actor and to try to safeguard consumers from perception and confusion. If registry operators have chosen to adopt additional mechanism which they think make their registry more attractive or, you know, a better operator in the marketplace then that's entirely their choice subject to your, obviously, you know, to them proposing something

which ICANN says it's, you know, it's not committed. But it's not our job to be passing judgment on voluntary practices that have been adopted by registry operators. It's outside of our charter and so these questions go to, you know, providing very interesting information that is outside of scope. Thanks.

Phil Corwin: Okay thank you for that input Susan and Greg has his hand up.

Greg Shatan: Thanks. Greg Shatan for the record. I agree with well what Susan has said as well. Also seemed to me that to some extent, you know, asking this to "registrants" all, you know, however many billing and potential registrants that are out there we'd also want to ask them whether registrations of domain names have prevented them from registering the same domain name in the same TLD. I think the answer to that is similarly self-evident.

You can't register the same domain name, exact domain name twice in the same TLD. And blocking works the same way. Also seems if we're going to look at the impact -- and I don't think we should in this way because it's not - it's outside of our remit we should also ask consumers whether blocking services and whether they know it or not security and trust in the Internet because it prevents infringing or fraudulent or abusive domains from being registered and ripping them off which is of course, you know, a big reason why we're all here in the first place. Thanks.

Phil Corwin: Okay thank you Greg. So that was a good discussion of that issue. And anymore thoughts on it? All right well at least this cochair will take that full discussion under advisement and think about what's just been said. I don't have any further reaction at this time. Is there anything else about these questions that anyone wants to raise for discussion right now?

Well then seeing no hands and hearing no voices again the co-chairs working with staff are going to determine where these questions should be directed. We're going to share that initial determination with the working group for comment. We're going to allow in some cases staff will be collecting data

that's publicly available but we will give the parties that offer these private protections the opportunity for additional input to any further explanation. They might want us to share with the Working Group. We also may once we see that - the explanations of the services and costs may have some additional follow-up questions which we can't predict at this time. And we'll also decide whether there's any additional data sources we need to perhaps look at and also share that with the working group for comment.

So I think we've done probably as much on these private protections as we can today. But the floor is open for another ten seconds if someone wants to interject on this. If not I'm going to open the floor for any other business, any other issues that Working Group members want to raise on today's call. And again the silence is deafening. So our - George go ahead.

George Kirikos: This is George Kirikos for the transcript. Just a minor point. Last week's call got canceled and somebody on the mailing list had asked whether there was going to be an amended schedule of all the future calls to take into account the work that was missed. So I just want to raise that small point.

Also there were various questions that were asked of INTA's survey provider Nielsen. And I was wondering whether we will ever get a response to that and if so when?. Thank you.

Phil Corwin: Okay let me address those in reverse order George. So far as further response from Nielsen and/or INTA I don't know the answer to that. If staff has any response on that I'll look to staff for input. So far as the schedule the co-chairs had a discussion of that. We're going to stick with our general schedule of scheduling the APAC call, the believe it's 0300 call of having that be the last call of each month just so that it's easier for people to remember that the last call of each month is the one that's while people are sleeping in Europe and have finished breakfast in Asia and are waiting to go to bed in the US then moving the whole schedule back by a week and by perhaps confusing everyone. So that was a cochair decision. I don't think it's going to

make a big decision difference in the long run. It's going to be rare when we skip weeks on meetings given the press to keep moving forward with this working group.   And on that point our next call is - our next call me Mary is - or anyone else I believe it's the - be the 27th. So next week would be the 0300 call. Is that correct? Mary go ahead.

Mary Wong: Thanks Phil. This is Mary from staff. As Julie has put in the chat and pursuant to what you just said that would be the fourth rotation so it would be the APAC friendly call. Staff did have a question for the chairs and the working group as to - and this is something we can take off line with the chairs as to what would be the best topic for discussion next week on that call not just because of the time zone but because of having completed this initial discussion of the additional marketplace RPMs.

As I mentioned we are in the midst of gathering a lot of the specific data that had been requested and identified as I mentioned earlier sunrise date registration totals and so forth. At this point I do not know that we will be in a position to have something that is in a form that we think would be useful to the Working Group by next week. So I just wanted to flag that and for the co-chairs and the group to know as we discussed with the co-chairs the agenda for the next week and the weeks to come.

Phil Corwin: Yes thanks Mary. And the co-chairs have not yet had a discussion with staff regarding what should be the focus for next week's call. And we always welcome input from working group members when they think we should be taking up a new subject and returning to one that we put aside for a week or two. So we welcome your input. I don't have an answer yet on what our focus will be at the call that for those of us on the East Coast or the US takes place at 11:00 pm at night once a month. So with that if there are no further...

((Crosstalk))

Phil Corwin: (Claudio)?

(Claudio):   Yes?

Phil Corwin: Yes go ahead.

(Claudio):   Yes George might have been referencing a note I sent to the list. It was less really about the scheduling. It was really in reference to the project plan document that I think is up on the wiki that sort of outlines, you know, where we are and the bigger picture timeframe on, you know, hitting milestones. And so I was just curious if that was being updated or, you know, just sort of where we are on that sort of bigger picture issue?

Phil Corwin: Yes thanks for the question (Claudio). I think on that on the timeline frankly we're waiting to see the council disposition of our data survey request and motion taking place later today. Obviously that motion is approved and we hope it will be approved because as said as data requests were developed from the bottom up within this working group that will of fact our timeline. So we're waiting for that and then we'll work with staff on revising the timeline. And but I can assure you that the co-chairs and staff I have already discussed what we can be doing to keep forward momentum. If assuming counsel observes that motion what will we do during that time that these survey questions are being designed, disseminated and analyzed that relate to trademark claims and sunrise registrations. And we do plan to take up other matters so we're not just putting everything on hold for any significant period of time. But we'll have to report back in more detail after today's call and...

((Crosstalk))

(Claudio):   Okay thank you.

Phil Corwin: ...(unintelligible) have council action. Okay?

(Claudio):   Thanks.

Phil Corwin: All right unless someone else has a burning question or comment going once, going twice we are adjourned. You have 14 minutes of your life back and we'll not see you but we'll hope to hear from you one week from today at the Apex Live call. Thank you. Good-bye.

Man: Thanks for hosting the call.

Mary Wong: Thanks Phil, Paul, everyone.

Woman 1:   Thanks everyone for joining today. This meeting's adjourned and (Shelly) can you please stop the recording?

                          END