

**ICANN
Transcription
Review of all Rights Protection Mechanisms (RPMs) Sub Team for Data
Friday, 17 November 2017 17:00 UTC**

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Michelle DeSmyter: Well welcome, everyone. Good morning, good afternoon and good evening. And welcome to the Review of all Rights Protection Mechanisms Sub Team for Data call on the 17th of November, 1700 UTC.

On the call today we do have J. Scott Evans, Rebecca Tushnet, Philip Corwin, Susan Payne, Michael Graham, Kurt Pritz. We do have apologies from Kathy Kleiman and Lori Schulman. From staff we have Mary Wong, Julie Hedlund, Berry Cobb, Ariel Liang and myself, Michelle DeSmyter.

As a reminder please state your name before speaking for transcription purposes and please utilize your mute button when not speaking. And I'll turn the meeting back over to you, Mary.

Mary Wong: Thank you very much, Michelle. And this is Mary from staff. Not to chair the meeting but to note that with this sub team, the decision was not to have a chair of the whole sub team but for folks to take on duties as and when depending on their specific responsibilities. And for today, if you note the agenda on the right side pod, the main focus is the discussion of the Google document on which I believe most if not all of the entries have been filled up by various people.

I note also that we have two of the three working group sub chairs on here who are ex officio to this sub team. We have J. Scott Evans and Phil Corwin. So my purpose here is just to kick everyone off. And I see that Ariel has put a link to the current version of the Google Doc in the chat. And we also have a PDF version of the document that we can upload for everyone. But I'm happy then to just turn the call over to the sub team and perhaps, Kristine, you did have a comment before we start on the document?

Kristine Dorrain: Hi, thanks. Yes, I have a suggestion, aka, volunteer. I was - given our discussion that we were going to break this up and each sort take a section. The section that I sort of put the initial draft in for is the first section. So if - unless someone disagrees, I am going to volunteer to chair today with the suggestion that whoever wrote up Section 2 chair next time assuming we get through Section 1 this time.

I don't know if that's sort of what we were thinking when we originally set this plan up, and I'm certainly happy to step down if someone was chomping at the bit to chair today but I'm certainly willing to take us through my - my answers and the things that I put in the chat. Thanks.

Mary Wong: Hi, Kristine. This is Mary from staff. Thank you so much. And I see that Susan and Kurt are agreeing for you to chair today and especially seeing that you did Section 1. I don't see any other indications or objections, and Lori has agreed as well and J. Scott has too. So let's - please go ahead, Kristine, and I will happily hand over the call to you. Thank you so much.

Kristine Dorrain: Great. Thanks. This is Kristine for the record. And I note that the chart is up in the Adobe chat. I've also opened it on my screen so I can scroll through better and maybe take some notes as we go. But starting out with my understanding of what it is we were supposed to do here, is that we were supposed to take a look at the types of questions that we wanted to send to registry operators. That was the section I was tasked with.

So the way I - the way I went about it was to really think about what could guide the winner of the RFP, so whoever is going to be gathering this data. And so to some - in some places I got kind of specific with sort of suggested questions that I was hoping would guide them without being - the goal was not to - not to sort of dictate to them what the question should be but to suggest to them what a type of question might be that could possibly get to that - the answer that we're looking for.

So I'll just dive right into my suggestions and then hopefully we have a robust conversation, you know, and we can really fly through this quickly and decide what parts of my work is good and what parts of my work needs some editing. So with respect to the first piece, we wanted to obtain anecdotal evidence to facilitate working group review of sunrise charter question Number 2 which was relating to whether sunrise and/or premium pricing affects trademark holders' ability to participate in sunrise.

And a couple of our questions - a couple of our charter questions were related to this purpose. One is, "Does the registry sunrise or premium name pricing practices unfairly limit the ability of trademark owners to participate during sunrise? And then if so, how extensive is the problem?" So trying to get at this question of the pricing practices of registry operators, I noted that I didn't think that this question really went to registry operators. I had made that point before I lost; I'm not relitigating that battle.

So what I ended up doing was suggesting some questions that might get us some complementary information because I don't think you can ask registry operators, "Is your pricing scheme unfair?" I mean, that's just going to come up with an answer. So some of the questions that I came up with that sort of might help the working group come to its own understanding of that question were, "How do you view the sunrise period as providing a valuable service?" Which gets really to sort of the intent of registry operators and it would maybe

be sort of an open ended - lead in to an open ended question that would talk a little bit about the types of things that were of value to registry operators.

“Was sunrise participation something that you encouraged? If so, what practices and policies did you implement to encourage sunrise registrations? If not, do you have suggestions for other policies that would have better protected brand owners’ rights in your TLDs?”

And then again, you know, to try to get to the complaints and the unfair limitations, “Did you receive complaints from brand owners about your pricing including premium pricing that applied during sunrise? If so, can you share any steps you took to resolve the complaint?”

So please offer you feedback here. I’m looking for some hands, anything, surely you don't love this. Looks like Lori agrees with the tone of the registry questions. Does anybody see any problems with the way I’ve worded them? Does anybody think that we can get more information from registries? Michael, go ahead.

Michael Hammer: Yes, I was just looking word-wise and I think your point is well taken up front that the question really is directed at a different constituency and is subjective in that way so I sort of like the way that you’re coming at it. I think a couple of word-smithing things. One, under your bullet, “Was sunrise participation something that you encouraged?” One, two, I guess the end of the second sub bullet where you’ve asked, “If no, do you have suggestions for other policies that would have better protected brand owners’ rights in their TLDs?” I would simply add after that, “What are they?” Just I read these questions rather literally and I would say yes or no and maybe not go any further, so this way, you know, we can certainly signal that we want to get more information.

And then in the last one, I did have a comment, hang on. I understand your phrasing where you say, “If so, can you share?” I think I would make that

more suggestive of, "If so, please share any steps that you took to resolve the complaint." And perhaps - and advise whether or not they were successfully received, I don't know what that wording would be. But otherwise I think it's the right way to try and get at this information.

Kristine Dorrain: Thanks, Michael. Susan, you're next.

Susan Payne: Thank you. Hi. Susan Payne for the recording. Thanks so much, Kristine. A point of detail on the bullet that we were just talking about, the one about "Did you receive any complaints?" If we take the kind of literal approach from Michael, and I recognize that obviously these aren't the final forms of the questions.

But, I mean, I suppose it is entirely possible that the complaint wouldn't come from the brand owner, so it might be helpful to say, "Complaints on behalf of brand owners," or "from brand owners or registrars on their behalf," without wanting to get into a level of detail. But I think it's conceivable that someone might choose to read this entirely literally and answer no even though strictly speaking they did get complaints. So I think that - as I say, that's quite a sort of level of detail and maybe we don't need to get into that level of detail here.

But I did - I did wonder about, I mean, we've talked at length about whether we think registry operators will provide their pricing. And I know many of us think they won't and indeed I'm, you know, I'm one of them who thinks that generally speaking probably registry operators won't be willing to share their pricing.

But they clearly won't share it if we don't ask them. And so I wonder, given that we are going down this exercise and we are asking them some questions, is there any harm in saying, you know, are you willing to provide, you know, the details of your standard sunrise pricing compared to your GA price even if they don't provide the specific, you know, values. You know,

what is the level of your standard sunrise pricing, you know, compared to your standard GA?

And indeed, are they willing to share their premium pricing? Again, I've got no real expectation that they will, but we won't - we definitely won't get the information if we don't ask.

Kristine Dorrain: Thanks, Susan. I also put a note in the chat that I'm actually making these edits real-time to the Google Doc as we're discussing them and we can feel free to add and delete those as we go. Let's see, Rebecca, you're next.

Rebecca Tushnet: Hi, Rebecca Tushnet. So actually I wanted to suggest a somewhat broader change to the sunrise participation question. So right now it's not reciprocal so, "Was sunrise participation something that you encouraged? If yes, what did you do? If no, why not?" That is the "no" also impose basically another question which is, you know, "Do you have suggestions?" And here I would actually ask if we should make it a little more balanced by including a reference to balance so to say, you know, "Do you have suggestions for other policies that would have made sunrise more effective, more balanced or some other formulation?" You know, and then, "What are they?" and even, you know, "Why do you suggest this?"

Kristine Dorrain: Okay, thanks, Rebecca. I see Phil is next and then I'll put myself in the queue. Thanks. Go ahead, Phil.

Phil Corwin: Yes, thanks. Phil for the record. And thanks for doing - it's clearly you did a great deal of work here. I just had a question, at the top of Page 3 of the document that's being displayed, the first two bullet points, "Should domain names on the reserve list that match entries in the TMCH be offered first to brand owners?" And then alternatively, "Should ROs notify brand owners when a reserve name matching a TMCH entry is sold to a third party?"

How would they know if it's in the TMCH given all the discussion we've had about the confidentiality of that database, unless they've done a massive reverse engineering job to try to find out what's in there? How would a registry operator know what's on the - what's been registered in the Clearinghouse?

Kristine Dorrain: Phil, could you stay on the line for just one minute? I'm not following which section you're in. Are you in the second row?

Phil Corwin: I'm looking at the document on the screen in the...

Kristine Dorrain: Okay.

Phil Corwin: ...in the final row, that's the new language, right?

Kristine Dorrain: So can I ask - can ask but likely won't get answered, "Did you receive any complaints from brand owners about your sunrise pricing?" that?

Phil Corwin: No, I'm looking at the top of Page 3 of this document.

Kristine Dorrain: Oh okay, we're still on Page 1, top of Page 2, Phil.

Phil Corwin: Oh okay.

Kristine Dorrain: Thanks, okay.

((Crosstalk))

Kristine Dorrain: ...when we get to the second row.

Phil Corwin: Yes, let's mark my question for when we get there. Sorry for jumping ahead but I was just doing a quick scan and that one caught my interest so I'll

recede here and when we get to that page and that column we can take it up, but the question - let's just bookmark it right now. Okay.

Kristine Dorrain: Perfect. Thanks, Phil.

Phil Corwin: Thank you.

Kristine Dorrain: I'm in the queue next and then I think - unless Rebecca, that's a new hand, I think I see Susan next. My response, I guess, the intervention I wanted to make was with respect to Rebecca's subgroup to use more balanced language when talking about what registry owners might have done. And I did - I wanted to just react to that because I did consider having some language, you know, talking a little bit about balance.

However, you know, it's been pretty clear from sort of the mandate of the review is the purpose of the rights protection mechanisms were to protect trademark rights, and so, you know, if we want to talk about, you know, why you did or didn't participate in sunrise, I feel like you're going to sort of the core of the question by saying, "If you didn't participate, is it because you didn't think it was protecting trademark holders properly or you think it protected them," you know, "did it give them too much protection?"

So that was sort of the reason I worded it that way. I'm trying to make sure that we keep the scope appropriate rather than, you know, protecting some other form of rights that's not just trademark rights. And feel free to, you know, rebut me there. Susan, go ahead.

Susan Payne: Yes, thanks Kristine. Yes, I put my hand up to respond to Rebecca as well. And I would agree with what you've just said, and also I think, you know, this is the set of questions that we're asking the registry operators and I recognize then all sorts of things about what do you think. But we are, you know, this is supposed to be, you know, a data gathering exercise. I recognize some of it's going to be anecdotal. But once we get into the, you know, the how would

you have done it differently, I mean, that's what - that's almost what registry operators should be participating in this working group for. That's not really, you know, data that we're going to gather to support our work.

Having said which that kind of question is almost certainly going to be the kind of question that we are asking the - what's being termed the potential registrant or the other domain registrants. And they may well have views on how this could have been a more balanced process for them. But I think, yes, so I'm coming at this from the same sort of perspective as you were, that I think what we're trying to elicit here is about what, you know, why have trademark owners participated or not participated if they haven't.

You know, there's been this perception that pricing has - is an issue and so that's what we're asking questions about here, we're not asking about all sorts of other reasons around the edges which may or may not be relevant to balance on this particular question.

Kristine Dorrain: Thanks, Susan. I note that Rebecca is also modifying the doc real time and she's suggested maybe something like "made sunrise more effective" or "increase utilization on sunrise." So looks like she's putting some suggested language in there as well that we can circulate. Kurt, go ahead.

Kurt Pritz: Hi, everyone. Well I hope this is helpful, I wonder if we could ask a question about the registry's strategy with regard to sunrise and, you know, they might choose not to answer this one too, but, you know, is there a strategy for sunrise to get sunrise registrations? And then if so, is it to make money or is it to, you know, be - establish a reputation as a, you know, rights protection mechanism champion? Was their strategy to sort of discourage sunrise registrations? And if so, how did they do that? Did they not market a sunrise period at all? Did they go for just a 30-day period? Did they charge high prices?

So I wonder if we could ask them what their strategy was and then, you know, take from that, you know, make some extrapolation from there to whether the, you know, judgment as to whether the - this particular rights protection mechanism was - is reaching some of its goals.

Kristine Dorrain: Thanks, Kurt. I added a line onto the bullet 2 about sunrise participation being something you encouraged, something to the effect of, "Was it part of your overall strategy?" Or "How did you market it?" and that sort of thing. The - I had to say I chuckled a little bit because you know, obviously registry operators are forced to do a sunrise so as far as your strategy, well, given it's what I've got this is what I guess I'll use it for.

Go ahead, Michael.

Michael Hammer: Yes, that's actually a good point. I just wanted to perhaps respond or to one of the points that Rebecca made in the side which is a suggestion maybe changing the language which presently is better protected brand owners' rights in your TLDs, the suggestion maybe that she was making made sunrise more effective or increased utilization of sunrise. I think the problem I have with that is what is meant by "made sunrise more effective," I mean, on the one side for rights owners it's protection; for registries that might be, you know, to create the least amount of problem.

And I think as Susan and you had pointed out, we already have a directed question as to whether or not the RPMs were effective in doing what they were intended to do which was to protect the brand owner's rights. So I think, you know, we might want to ask a question of the registries about effectiveness in their view and what they meant by that. But I think having these really focused questions is far better and probably more likely to get information whether it be data or anecdotal but information that we can utilize as data when we go back and then make our final determination as a PDP.
Thanks.

Kristine Dorrain: Thanks, Michael. Kurt, are you back in the queue? No, old hand, okay. All right, I'm going to allow you to pause for 30 seconds here while you think about the interventions that we've made so far, the suggestions we've made so far. And hearing no additional comments to Number 1 - oh, J. Scott, go ahead.

J. Scott Evans: Hi, there. Can you all hear me?

Kristine Dorrain: Yes, we can hear you great. Thanks.

J. Scott Evans: I suppose overall - these are personal comments, not chair comments - this is J. Scott Evans for the record. Where I'm struggling is how asking these questions gets to the root of what our charter is, which is the effectiveness of RPMs. I mean, it seems to me that getting objective data would be far easier to do and then let the data speak for itself such as, did you have premium pricing? Did you, you know, if so, please, you know, how did that work? Or something like that so we can look. And then how many sunrise registrations did you process during your sunrise period?

And then if we ask 50 registries this question and we see that those that ran premium pricing had lower number of sunrise registries, I think it shows that there was an effect. But I just am curious as to how this has to do with the effectiveness of sunrise registrations? I guess maybe the point that - some trademark owners are feeling is by using premium pricing - and I'm extrapolating here, no one's called me and complained to me personally - you lessened the effectiveness because you lessened its attractiveness to me as a solution to the problem because now it was priced out of my range of available revenues.

But I just am a little worried about asking all these questions like what did you do to encourage it? And what did you do not to encourage it? And if so, why? I don't know if any of that has to do with the effectiveness of the RPM but maybe you all have been, you know, dealing with these issues and sort of

discussing them longer than I have. I've missed a couple of calls, but I just struggle with the fundamental purpose of what we're trying to do and that is to address whether the RPMs as they exist today are performing as they were designed? If not, what are our recommendations to cure that problem? So I just put that out.

Kristine Dorrain: Thanks, J. Scott. And I - if I may just respond quickly to the question about why they're worded this way and then Michael will be next. So I think - the main reason - and I'm not even really defending it because I don't really like these questions at all. The main reason I asked the questions the way I did is only because I was trying to answer questions that would actually result in an answer from registry operators involving trying to get their buy in and get, you know, some feedback on how the process worked for them because, you know, it really asks registry operators, "Were you unfair?"

I absolutely agree, I've included those data questions in the list now. This is great. I think we have to distinguish between premium pricing and premium pricing as it overlaps with sunrise pricing because you could absolutely have a ton of premium pricing but if you've carefully vetted that against sort of a TMCH list or something then that's a different answer than if you just talk about premium pricing.

So I'm going to make a little tweak there and maybe, you know, we'll circulate that and see if you like that edit. But this is exactly what I was hoping for is people to come back to with suggestions of maybe more comprehensive hard data that we could request. And I am not married to these questions if the group decides we want to delete them, we should delete them. Go ahead, Michael.

Michael Hammer: Yes, I'll see which of these two points I forget first. The first one in that sub button where you asked, "Will you provide your standard sunrise pricing compared to GA?" I think we should make those questions pretty direct. "Please provide your standard sunrise pricing," you know, perhaps just list the

different ones that we want so standard sunrise pricing, standard general availability pricing, and then also premium pricing during each of those as well.

I wouldn't ask them, "Will you?" I go back to deposition training if I ask that question they'll answer yes or no and I'll still have to ask the next question which isn't part of our form. So I would just go ahead and ask them please provide.

And in answer to J. Scott's comments, I'm right on board with you except I think what we're trying to do if we look back at the purpose and scope was to obtain anecdotal evidence to facilitate our discussion and in part it was because members of the PDP had expressed that registry operators might believe this, that or the other thing, and so we were actually trying to reach out to them to get that anecdotal evidence as well as the actual data that we could utilize. So I think it is a dual purpose and it leads to sort of open ended questions but I think that's what we were looking to do. Thanks.

Kristine Dorrain: Thanks, Michael. I hope you'll review this when I - when we recirculate it to make sure that I captured your comments. Lori, please go ahead.

Lori Schulman: Yes, hi. I want to kind of dial back - I just heard what Michael said and I've missed a few calls too I think, the last month or so. But I am concerned about the focus on anecdotal evidence. This is something that INTA got slammed for that yes, we had the low response rate but I don't want to talk about that in this working group, I want to talk more about like - on the sub team - I want to talk more about like the way we got responses. Like we did have open ended questions as part of the survey to ask whether or not trademark holders thought these mechanisms were helpful and we got generally helpful answers.

But then we got torn apart that that wasn't data specific either. So I just want to dial, you know, kind of revert back to our experience at INTA so we don't

make the same mistakes and then we - where we see strengths, promote strengths. But I kind of go with J. Scott on this that, you know, we'll get all these anecdotes but how do they get to the core question of effectiveness?

And I think that's - to be honest, what I think we've been struggling with now for over a year. I feel like we've strayed into purpose rather than effectiveness in terms of, you know, I don't know how to voice this accurately. And if - I'm just trying to say that again I think that the target of the group should be something you know, laser and data-driven and I don't know if anecdotes are really data driven, because let's say hypothetically we only get 50 responses and we could, we're going to run into the same problem of enough anecdotes to identify a trend.

So I'd rather have yes or no's or straightforward which are really hard to do, I mean, I've been trying to think of what some of those questions would be myself. And I'm not sure. But I just - I don't know, I feel like I want to give that caution because to your point, Kristine, we are going to be asking for you know, proprietary information, strategy, and I don't know how forthcoming people will be with that.

Kristine Dorrain: Yes, thanks, Lori. I put my hand up to respond to that. I agree with you. I think that - I think in this specific question - I think it gets a little better when we get to Questions 2 through - I hope it gets a little better when we get down to some of the other questions because this one really - like I said, it's not targeted at registry operators so it's tough to get that data in this case. And so I know that that's kind of why we had said, you know, obtain anecdotal evidence on this one. But I do support the suggestion that we need - more than anecdotes, we need data.

Also now since you brought up the number 50, I mean, I doubt, I mean, just given the number of, you know, sort of portfolio TLD owners, like I don't even think you'd get 50 responses. I don't think anyone - I don't think Donuts is going to respond 250 times. I'm pretty sure Amazon is not going to respond

52 times. So I think that ultimately at the end of the day we're looking at, I mean, we got three responses to the first survey we put out I think.

So I think this is going to be really tricky and I think that you're spot on in figuring out do we get some information that people will actually give us that'll be actually useful. And I think that's tricky specifically when we want to ask, you know, sort of the question in the negative. Michael, you're next.

Michael Hammer: Well I was just wondering - and I'm not a survey expert but I know that there's a strategy in interrogation that's sort of referred to as softening, which is where you ask the softball questions, you get a conversation going, then you ask the hard questions. And by asking the softer questions ahead of time, whether or not you use the information from those has opened up the subject to providing that information.

So what my suggestion would be to go ahead and - I don't know if we want to identify the, quote unquote, soft portions of these, but my understanding is once we come up with these questions we provide them to the entire group, they're approved or not, then they still have to go through the step of going through whoever we're utilizing to conduct the survey to take a look at them. At that time we can say, look, this is the information we want to get, these are the questions we came up with. Is this a useless sort of approach or not?

But I agree, we need data but in some cases you know, you know, if we have anecdotal evidence, as Lori points out, maybe the response is the same one as some of the INTA responses received which is, oh that's just anecdotal. But in effect that anecdotal evidence was developed because we were facing anecdotal evidence contrary to it.

So I think it's useful both from a question asking strategy and, you know, also obtaining some of that information, some of that insight that we might gather and then be able to follow up if we want to as a PDP. So I agree, and at the

same I think it is useful to have these questions at least appearing in this draft. Thanks.

Kristine Dorrain: Thanks, Michael. I'm going to defer to Mary next because I didn't notice her hand, and then Susan if that's okay.

Mary Wong: Thanks, Kristine. And thanks, everybody. So as you say, Kristine, for the first survey that we tried to do of registry operators, we did get just three responses. And that was despite numerous reminders and trying to enlist the help of Registry Stakeholder Group members of this working group. So, you know, bearing that in mind, plus what Lori said about INTA's experience with some of the issues that were raised about that.

At the same time, I just wanted to remind everybody that while we may be able to come up with draft questions as a sub team that can be sent to the working group, we will have a professional survey designers on hand. So some of these questions and the context and the question of, you know, what is the best way to frame this? What should we be looking for? Is it better to ask a yes or no question if we want to have more responses, is a conversation we can have with that professional.

And the final point I wanted to raise at this juncture is that as I think Phil and others may recall, when the Council was discussing our data request, there was some concern expressed about the value of anecdotal evidence, particularly it was limited, versus a strict data, if I may call it such. But there was also a feeling that anecdotal evidence could be useful in some kind of qualitative sense.

So I'm not an expert myself, but it may be helpful for this group to document some of the concerns, as have been expressed on today's call, and to be able to explain clearly to the professional when we get that professional, what it is specifically that we're trying to elicit and for what purpose. Thanks, Kristine.

Kristine Dorrain: Thanks a lot, Mary. Susan, go ahead.

Susan Payne: Yes hi, sorry, that took a bit to get off mute. Yes, I think everyone probably on here actually probably feels the same way as you do, J. Scott. I think, you know, we all sort of slightly feel like we're working with what we've been given to work with. I mean, I personally, you know, feel that what we need is the data more than the anecdote but I think you know, we're also very conscious that - we don't want to put out a survey that's only seeking data and we get absolutely nothing back because we're very conscious that we've been tasked with trying to kind of make the best use of the ICANN funds if we go down this path, if you know what I mean.

And I'm also really conscious that, you know, we got - the data request that went to the Council and has then come to us to look at is one that says "obtain anecdotal evidence to facilitate the working group review on charter Question 2." Now I think I argued against this at length for the whole time that we have the previous data sub team, and indeed when it went to the working group but I kind of also do feel like we've been handed something by the full working group that we're supposed to now put into practice. And so I'm really happy not to be seeking anecdotal evidence, I just feel like we've been tasked by the working group with doing it.

Kristine Dorrain: Thanks, Susan. Anyone else? J. Scott, go ahead.

J. Scott Evans: This is J. Scott for the record. Just to address Susan's concerns, and maybe what we should do is go ahead through the exercise of doing that but then when this is presented to the full working group I think we should raise these concerns that - once again and say, you know, again and again these concerns kept coming up about the type of evidence we're gathering, and what the usefulness of it would be and what the reality of actually receiving it might be.

Kristine Dorrain: Thanks, J. Scott. I'm going to interject a suggestion here before I turn to Lori. I know I'm a big fan of these tables, but what if we were to actually create the suggested draft questions into two columns, think about that for just a second here. What if we have the - a list of sort of anecdotal questions and then a list of data driven questions? That way when we do, to respond to J. Scott's point, when we do present it to the working group they can see the limited data driven questions that are available versus the anecdotal questions and it might actually really help us refine our thinking processes as we're looking at the anecdotal questions it might drive us towards more data-driven questions.

Lori, go ahead.

Lori Schulman: Hi. I support that suggestion, Kristine, I think that makes a lot of sense, the data. I think that would be super helpful rather than conflating the two. I also want to note what's been going in the chat with Mary Wong. I suggested that we reach out to the GDD staff because they have a lot more training and a lot more experience in doing these metrics on a frequent basis.

And what I'm really concerned about is we're spending this amount of time, none of us are experts here, we do have some, you know, battle information from the recent survey that INTA did, and I do think it's valuable but we definitely had lessons to learn there. And I just want to make sure that we're working most efficiently particularly given the budget we're given because the design itself could end up eating a lot of that \$50,000 before we even get to socializing it.

You know, INTA had a built in marketing way of doing things, we had a captive audience, we had our members. And so even though we had the low response rate, we actually had good means of marketing and it was the survey design itself that led to the incomplete. And so this is why I'm hesitating because unless we design this in a way that's very easy to fill out and not much time is consumed, I'm afraid we're going to down that same path that we went through with INTA.

And, as background, we worked extensively with CCTR teams, we took their model questions, we worked with Nielsen, but somewhere there was a disconnect in the design and it was a serious flaw in the survey. And I just feel like I'm going to keep pushing this point because if we don't have clear, direct, easy questions we're not going to get what we need and certainly not going to get what we want.

Kristine Dorrain: Thanks, Lori. I fully agree with you on a personal standpoint and it looks like others do too. J. Scott, is that a new hand?

J. Scott Evans: No, sorry. I'll take it down.

Kristine Dorrain: Oh no worries. Well we've got 10 minutes left. I'm not sure if we really want to dive into Number 2, I mean, we certainly can give it a quick look. I think that we've got some good direction at least for, you know, switching up the table a little bit, splitting up the questions. I hope that we'll all do some homework and really review these and think about ways we could alter these questions.

But let's dive in, I guess, and seeing no other objections - oh, Kurt, go ahead.

Kurt Pritz: No, I think that's right. Let's do Question Number 2 and then so - and 30 seconds, and I think this is the right path, that everybody's made a suggestion so let's try to refine them the best they can but then recognizing what Lori just said, you know, the next step is to, you know, and do this get, you know, us a survey provider in the room that's objective that hasn't been part of this group but also has, you know, registry operator's experience that can refine the questions and create simple questions that, you know, registries or registrars or whoever our target is, will answer.

And the last 10 seconds, I know we say the word "budget" a lot but we really need to go about this the right way and then figure out what it's going to cost and, you know, try to do it as inexpensively as possible but not, you know, not

do something that's right because we're concerned about budget. So I think we're going down the right path doing the best job we can refine the last column but in parallel we need to find the party that's going to, you know, translate these questions into the simple question that Lori is saying that we need and that we all agree with her.

Kristine Dorrain: Thanks, Kurt. Yes, yes, I support all of that. Moving onto Row 2, so we want to obtain anecdotal evidence to facilitate working review of - working group review of sunrise charter Question Number 4, which is, "Whether registry use of reserve names lists affects trademark holders' ability to participate in the sunrise?" And to be clear, a reserve list is a name in which no one can register a - a list of domain names no one can register at that point. So they're essentially blocked off from registration for one or more reasons.

So we want to know four different things, are the registry operator reserve names practices unfairly limiting participation in sunrise by trademark holders? Should Section 1.3.3 of Specification 1 of the Registry Agreement to be modified to address these concerns? I think that goes to a recommendation of the working group, I'm not necessarily sure that that's going to be something people are going to want to weigh in on, but anyway.

Should registry operators be required to publish reserve names lists and what are registry concerns that would be raised by that publication or what problems would it solve? And should registries be required to provide trademark owners in the Trademark Clearinghouse notice and the opportunity to register the domain name should the registry release the domain names off of the reserve list subsequent to the sunrise? What registry concerns would be raised by this requirement?

And so one of the things that I did here was actually sort of kind of basically have one bullet point per question. So did you reserve domain names that you knew were trademarks? I mean, really that's asking the hard question, I think that Michael - or someone was suggesting just ask it right out, see what

they say. If so, were those reserve names also dictionary words, giving them a chance, as I think someone else pointed to raise a defense as to why they might have done that.

Did you reserve names for political or legal reasons specific to your jurisdiction? If so, how did you select those terms? Are they blocked or can the names be released to certain parties? How many names are in this category? And this one was specifically related to some of the geo names TLDs, they ran into some problems; cities wanted domains blocked and the 100 that ICANN allocates wasn't enough.

Would you support an ICANN policy such as through a modification to section - Spec 1 of the Registry Agreement that require registry operators to publish their reserve names lists? Why or why not? Specifically, would such publication violate any local laws? And should domain names on the reserve lists that match entries in the Trademark Clearinghouse be offered first to brand owners? Why or why not? Very open ended questions. Again, very much opinion questions, does not go to a lot of data except for, you know, did you reserve names that you knew were trademarks is a yes or no. Did you reserve names for political reasons, yes or no.

Susan, you're first. Go ahead.

Susan Payne: Yes, and thank you. And I was just going to take the opportunity to respond to the question that Phil raised when we were talking about this before, which is - which is around the how would the, you know, should the domain names be offered first to brand owners? How would the registry operator know? And I think what that's - the way that that would work in practice would be I mean, registries obviously can know what's in the TMCH because they can interrogate it or at least they can receive SMD files from brand owners.

So, I mean, in practice one way that you might be able to offer reserve names when they came off a reserve list to brand owners would be if you ran some

kind of a second sunrise. Alternatively, what we saw with the name collision names, for example, was that there wasn't exactly - there wasn't as such a second sunrise but name collision names when they were taken off reservation registry operators were meant to publicize when they were going to be released.

And there was a period during which, you know, brand owners could say, hey, I've got an SMD file, can I register the name? You know, so that's the kind of thing it's envisaging, I think.

Kristine Dorrain: Yes, I agree with you, Susan. I think that's I think what we were thinking because that's what's been done before is sort of the batch release. I was trying not to limit it in this case because in theory, if a registry operator was going to simply release a domain name for one reason or another I think it's a bigger question and a problem and I definitely think it's something registry operators would be concerned about is if they want to just take one domain name off they obviously wouldn't run a sunrise for that.

So is there, you know, I feel like the question the brand owners want to know is can I be notified even if you release one and the registry operators, because these questions are directed to registry operators, I feel like these questions would go to how does the registry operator feel about that type of request trying to phrase it as neutrally as possible. So I think that, yes, in practice, Susan, what you're saying is what's been done but I think that the point was to keep it a little bit more open ended for the future.

Susan Payne: Yes, sorry, can I just...

Kristine Dorrain: Please.

Susan Payne: ...just respond. And I think that's a really - in a way that's a really valid question isn't it? It's not even kind of how would you go about it, but it's, you

know, is there - technically can you do it because it's possible that technically you can't do it as a registry.

Kristine Dorrain: Yes, correct.

Susan Payne: And so there's no...

((Crosstalk))

Kristine Dorrain: Hopefully the open wire why not takes care of that, right?

((Crosstalk))

Kristine Dorrain: Oh sorry.

Susan Payne: Yes.

Kristine Dorrain: Okay, well conscious of the fact that we're now three minutes before the top of the hour, anyone - would anyone like to make any last minute comments or suggestions about this list? Is this list of questions moving in a better direction than the first set? Is this list of questions suffering from many of the same problems? Mary, go ahead, I'm sorry, I'm not looking at the top part of the chat, sorry. Go ahead, Mary.

Mary Wong: Not at all, Kristine, no problem. So just really quickly, staff did have a comment about the sub point to the first question. And that was to recall that I think when this came up in context, I think it was the TMCH, there was some concern on the part of some working group members about using the phrase "dictionary word." So what we're going to suggest is that we can go back to that discussion, retrace it and kind of see what that concern was and maybe if there was some suggested alternative language for the phrased dictionary words we can bring that back to this group.

And secondly, on Susan's point, I think one observation that we had is that, you know, some of these questions may actually be questions to bring back to the working group as well, you know, particularly in terms of the, you know, should there be a second sunrise, that sort of thing. And even if the final question to the registry operators is more along a technical or feasibility line and so we'll take note of that as well. Thanks.

Kristine Dorrain: Thank you very much, Mary. And Susan is that a new hand?

Susan Payne: It is. Yes, just on that dictionary word point, Mary, thanks for that. I think that actually the term we didn't like was "generic term," well in fact I know the term we didn't like was "generic term." And I think where we came out was we felt that dictionary word was preferable. So I think it would be - in case I've gotten, you know, memory loss, it would definitely be really helpful if you would check that. But I think we actually ended up coming down on feeling like dictionary word was a more appropriate language and we should avoid the word "generic" but so thank you very much for offering to check.

Kristine Dorrain: Thanks, Susan. Thanks, everyone, for participating. I know people are jumping off. Staff, I'm assuming that you're going to be willing, I'm volunteering you, to take the lead on taking the Google Doc and splitting the questions into anecdotal versus data driven, if you wouldn't mind taking the first pass at that and then maybe the group can go through and do our sorting after that. Should we send a Doodle poll for agenda Item 3? Yes, I think we should. I think there was enough discussion on the list that we definitely are going to need a Doodle poll for the next round of meetings.

And, Mary, do you have your hand up for something else as well?

Mary Wong: I did, and just real quickly, staff is very happy to take the first pass at the division of anecdotal and data driven. We are also happy to, you know, take a quick look through the Google document to make sure that, you know, updates are captured that was discussed today. What we did want to ask you

and the sub team was whether you'd like us to leave a couple of days for any additional updates particularly, Kristine, that you might want to make to this particular section before we go into the document?

Kristine Dorrain: I have personally made my in line updates as I went. I took all the notes right on the Google Doc and so I'm comfortable with you just making the changes now. We'll all just pause for a day or two here while you do that. And then when you release it we can all dive back in, that's going to be my suggestion.

And I notice in the chat that we agree we're not meeting next Friday. Thanks, everyone. Sorry to keep you long. Have a wonderful rest of your weekend and happy Thanksgiving to those in the US. Bye-bye.

J. Scott Evans: Ciao.

Michelle DeSmyter: Thank you. Again, the meeting has been adjourned. Operator, please stop the recordings and disconnect all remaining lines. Enjoy the remainder of your day.

END