ICANN
Transcription
Review of all Rights Protection Mechanisms (RPMs) PDP Working Group
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Attendance of the call is posted on agenda wiki page: https://community.icann.org/x/UQxyB
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Coordinator: Recordings are started.

Terri Agnew: Thank you. Good morning, good afternoon and good evening. And welcome to the Review of All Rights Protection Mechanisms RPMs in all gTLDs PDP Working Group call held on the 30th of November, 2017.

In the interest of time, there will be no roll call. We have participants on the line. Attendance will be taken via the Adobe Connect room. If you're only on the audio bridge would you please let yourself be known now?

Rebecca Tushnet:Rebecca Tushnet.

Terri Agnew: Thank you, Rebecca. Noted. I believe Renee Fossen is also on audio only so, Renee, I've noted you as well. Hearing no further names, I would like to remind all to please state your name before speaking for transcription purpose and to please keep your phones and microphones on mute when not speaking to avoid background noise.

With this I'll turn it back over to your cochair, J. Scott Evans. Please begin.

J. Scott Evans: Thank you very much. This is J. Scott Evans for the record. Good evening, good morning, good afternoon everyone, depending on where you're located.

For those of you that have been on the line for a few minutes you've probably heard that I said we - it looks like we've only got about 10 members here on the call. And I hope you all have been watching the list but there has been a lot of, over the last week, discussion about the fact that they didn't want this call to be a deciding call of anything because there were so many people who were ether on planes or couldn't be here so they had asked that we make sure we have ample time with regards to the call.

So what I suggest we do is if we could get the chart - the table put up that was circulated earlier this week, and if there are any specific comments we have from our Asia Pacific members who may not always be able to make our calls, if they want to make some comments with regards to the questions here that we could note for the rest of the group just in case they aren't on another call, I'd like to give you the priority to speak now. The purpose of what we are doing is what we're trying to do is look at the charter questions that were given to us, and for those who know and those who don't, I'll just reiterate the history of where these charter questions came from.

Unlike many charters where the GNSO actually has a group that comes up with charter questions and they're very specific, this - these charter questions were sort of a roundup of questions and concerns that had been raised through various different vehicles, some were public comments to parts of the process, some were from a staff report and public comments to a staff report several years ago, and they were just all put in the index as a question.

And so as we've done with both URS, the TMCH and the sunrise period, we've looked at these questions and tried to discern where there questions that were duplicative, in other words, they were asking the same thing only in a different manner, where there were questions that were seeking certain information but seemed to be not just seeking information but seeking an

outcome and trying to bring those questions back to a neutral status where we're seeking just information.

And so that's sort of the purpose. And we've done this previously in subgroups but since we're at a point where we have a subgroup that's working on assimilating questions for the data that we're going to be acquiring for the sunrise and the Trademark Clearinghouse, and that work is not done, the cochairs thought it might be more productive work to have the entire working group participate in the process of refining the charter questions with regards to the URS.

And so that's where we find ourselves. Last week, for those who were not on the call, and have not had a chance - or two weeks ago, November 15, and I listened to that call again today to make sure that I understood, we went through all of the questions and we really didn't do any refining of the particular questions, we sort of had a refresher of what those questions were and then we had several issues bubble up where people thought that there were additional issues that should be covered, or there were additional things we should think about and they were added into the chart in this second column where you'll see - it'll tell you where the comments came from, whether it was from the ICANN 60 meeting in Abu Dhabi, or if it was from our November 15 call and that's what's in the second column.

But what we now need to focus on is taking those questions that are verbatim in Column 1, looking at those questions and then deciding if those questions need to have adjustments to them in some form or fashion or if they need to be eliminated because Question 1 - and I'm just using this as an example - and Question 14 are seeking the same information or if they need to be combined or if they need to be broken out into subparts. And so that's what we're looking for now.

And since there are many people on this call who don't make all of our normal calls, and that's the reason we hold this call, I would like to give

priority to you all to look at these questions and give us your input because so many people are not here we are in no way going to be able to come to any sort of consensus. So even if this group should say oh, we believe that Question 1 needs to be written as follows, we'll still have to have a call next week where we have more members on board that we can run and say here was the conclusion of call on last week and we open it up to the whole group. So just wanted to sort of set the stage for where we are and what we expect to accomplish this evening.

So with that in mind, we have here a table that was created, and I think it was circulated about 30 hours ago from staff, and in the first column you have the question that's been presented, and then in the charter - and then you have the next, the comments that we received sort of around this question, not necessarily with refinements to this question, but just sort of around the issues concerning this question. And then in the third column what we have is where this - where staff has identified this question may have come from originally, what the origin of that question is.

And what we need to do is then get into another column our suggested revisions for the questions that we believe will drill down to the information the question is seeking, whether it seems to rewrite it, you know, for clarity or other reasons, so that's what we're looking for. And with that we have Question 1 here and I'll open it to the floor. And I'd like of course again, sort of give precedent to our Asia Pacific members to weigh in. Phil, I see your hand is raised.

Philip S. Corwin   Yes, J. Scott, I just want to make a very quick comment in my cochair role. I think when we look at this consolidated table and about three dozen questions, I think the concern of members that we're going to rush through this in a week or two is not a serious concern. With that many questions it's going to, I believe, take us personally, take us at least through the end of the year to go through all these questions and consolidate them and make them more objective. So, you know, we can make some progress tonight but I think

whatever we do is quite preliminary because there's just so much to get through here.

Having said that, we have the time, the cochairs are going to meet with staff on Friday to discuss a lot of things, including the status of the data surveys for the trademark claims and sunrise registration questions, but realistically it's going to take several months to get those out and get the answers back. So we have a good deal of time here to give adequate treatment to the URS. And I'll stop with that. Thanks.

J. Scott Evans: All right, so with regard to that we seek Question 1 here, it's "Should the ability of the defaulting respondent in the URS cases to file a reply for an extended period," paren, "e.g. up to one year," close paren, "after the default notice or even after a default determination is issued," paren, "in which each case the complainant could be reviewed a new - the complaint could be reviewed anew," close paren, "be changed?"

And we had a lot of discussion about this last week and I think what this is drilling down to is whether - currently right now there is a year in which a default respondent, a respondent who did not reply and receives a judgment against them, can seek to have that re-reviewed. And I think the question is, is that - should that be changed? Is that - I think that's what they're asking. And I personally think this question is quite convoluted.

And so I open it up to members from the group to give any thoughts or comments with their thoughts on this question.

Claudio DiGangi: J. Scott, it's Claudio.

J. Scott Evans: Kristine Dorrain. Claudio, you're next. I see Kristine Dorrain and then I'll go to Claudio.

Kristine Dorrain: Hey, thank you. And I'll defer to any of our APAC friends who'd like to jump in. I believe I mentioned this last week but that might have been just in my head. Kristine Dorrain for the record. This question I think one of my - one of the things that I wanted to go back to a little bit was what was prompting this question? So when we read, "Should the ability for defaulting respondents to reply to file an extended period," to me that wording seems to imply that someone thinks that that is a benefit. And maybe even an, you know, an unnecessary or an overly - or an unbalanced benefit that respondents get.

And so I'm trying to maybe track out a little bit about why this is there so that we can divide the good charter question. So perhaps something more neutrally-worded could be along the lines of, "Is the," again, using kind of the language from our other charter questions, "Is the, you know, the default late response process of URS working? Is it having unintended - is it having an intended effect? Are there any unintended results?" You know, "Has anyone found evidence of harm from the way it's being done? Is it awkward? Is it unwieldy?" I mean, those could be some sort of more generic questions that I hope aren't leaning toward one side or the other, again just opening volley on the type of language that we could possibly update this to. Thank you.

J. Scott Evans: Thank you, Kristine. Yes, I mean, this is J. Scott Evans for the record. And I wonder if perhaps the first question should be, "Has anyone - has a respondent ever invoked this to the providers?" Because, I mean, it seems to me that if it's never been used it's hard to draw a conclusion and asking the additional questions about whether it's fair or unfair if it's never been used. Any response to that? Kristine.

Kristine Dorrain: Thank you. This is Kristine again. Just to reply to your question and not to jump on Claudio, the...

J. Scott Evans: Oh I'm sorry...

((Crosstalk))

Kristine Dorrain: ...one of our data questions, right? So when it comes to that far right column...

J. Scott Evans: Yes.

Kristine Dorrain: ...what data do we need to even get to this question, I think that's where that goes. And I think that's good. And I think maybe Phil's comment in the chat also maybe sort of goes into that as well. So we need some data to find in order to figure out...

J. Scott Evans: Yes.

Kristine Dorrain: ...is this working or not?

J. Scott Evans: Right. Great. Claudio, I'm sorry, I forgot you.

Claudio DiGangi: Oh no, not at all. And I completely agree with what you guys have been saying. I was thinking something along the lines of whether that appeal mechanism is serving its intended function and, you know, whether any changes might, you know, be considered. But exactly along the lines of what you and Kristine were saying.

J. Scott Evans: Yes. Great. I want to reply to Justine Chew in the list. If you - he's put in the chat, "How does one suggest editorial changes then if one wished to?" You just need to go up to the little hand icon if you're in Adobe Connect and raise your hand and you will be acknowledged and you can give us your input or if you feel more comfortable to present it in writing you can do that in the chat box and we will try to capture it. It's hard for me to watch this but usually somebody on the call either staff or myself, will find it and will speak to it and read it into the record.

I see that Heather Forrest has raised her hand.

Heather Forrest: Thanks, J. Scott, very much. And I appreciate you're carrying on for the APAC folks. Look, on Question 1 I didn't have any comments initially but on hearing Kristine's point I think it makes me think of something else which is my concern of that Question 1 is that we elicit for change, if any, if any purpose and if any change. It's not really clear to me that that's captured in the question. I mean, we're asking should it be changed? And if any change in anything that we do needs to be driven by a purpose. And Kristine's data comment exactly picked up on that thought in my mind.

So to the extent that we're able to capture that, please, J. Scott, I think that would be helpful. Thanks.

J. Scott Evans: Okay. I'm going to look over here in the notes and see - okay, they're taking notes. Staff is taking notes into the document so as Kristine said on that data point comment - column - that's where we need to put the data point of how many of these - how many respondents have actually filed to have it reconsidered in that year period. That is a question, how many, if any, have been done so we can get that.

David McAuley, you're asking the question, "Are there participants who are present when the URS was formulated with these default challenge procedures deadlines? Was there a reason for it back then?" Yes there are, and I'm going to look to Kathy Kleiman who I think was part of the STI that worked on some of the changes that happened to it after we originally drafted it to put these protections in. So, Kathy...

Kathy Kleiman: Hi, J. Scott. Good evening, everybody. Good morning, everyone. This is - so this is Kathy Kleiman. And thanks. Actually I think the - and it's a good question, David. I think this may go back to the IRT, J. Scott, which is the issue, I mean, the URS is designed to be an ultra fast, ultra quick system for clearly abusive domain name registrations in new gTLDs. But here was certainly a question would respondents be able to respond in time? You

know, would the notices go into spam? Would they go into ether? Would they not get them? And hence, would they not be able to respond?

So since the domain name is suspended, it can be unsuspended, and so the idea was - and again I think it came out of the IRT - the idea was to give them a period of time to file a reply if they defaulted initially. And, you know, largely the understanding - the underlying assumption was that they defaulted because they didn't know. So that's the suspension itself would wind up being the first notification to them of some kind of proceeding.

So another issue, another data gathering point that we would have here is do respondents even know that they can file during this extended period? Has that education been done? Is that information available easily on the provider Websites? And that's something I'd be very interested in. Thanks.

J. Scott Evans: Right. So we see here we've got data points that have come up, but does anyone have any suggestions here for rewording this question? I've heard some comments from a couple of people that they think perhaps it needs to be reworded but I haven't heard any specific suggestions so maybe that's something we'll leave to our next call but especially if there's someone from the Asia Pac group that feels like they'd like to get their two cents in on the record I'd appreciate hearing from you now. Kristine Dorrain.

Kristine Dorrain: Thank you. Kristine Dorrain for the record. Yes, so let me clarify, I did actually put some suggestion in a moment ago but I had said a lot of words so I'm sure it got lost. My suggestion is that we start out with is the defaulting response period, whatever we want to call that, serving its intended purpose? We're going to have to ask some questions to figure what that is. Or having any unintended effects? Either of those should be supported by data and evidence.

And then from there we can talk about, you know, if so, how should this default response period be changed to address those issues and/or preserve

balance, so something along those lines, that's my initial volley for the nomenclature. Thanks.

J. Scott Evans: Okay. Thank you very much, Kristine. And Phil.

Philip S. Corwin   Yes, J. Scott, Phil for the record. You know, my general approach on this question and frankly all the questions is that the initial inquiry should be - has this been used? What do we know about the actual use of this or the compliance with this or that point? So I think the initial inquiry should be, have - how many, if any, defaulting respondents have taken advantage of the ability to file a reply for an extended period? And once we know that data we can make a better informed choice on whether that period should be changed.

I also want to quickly raise a - I think a logistical point which is that to my knowledge the great majority of new TLDs to which this policy applies have been registered for a single year, there's very few multiyear registrations in new TLDs so far as I know. So another question would be, what would happen if a URS was brought midway through that one year term and the complainant, one, did not exercise their option to extend their registration period for an additional year, and, you know, should there be a limit on this ability if the domain registration period expires and the domain drops back into the general pool?

So I'm not sure that was addressed when this was thought of but it raises an issue about the ability to exercise this or about at least recognizing that the one year period may extend longer than the actual registration period of the domain that's been suspended. Thank you very much.

J. Scott Evans: Thank you, Phil. And I think that's a point that should be noted that is not necessarily an unintended consequence that may have occurred but it is something that is conceptually possible. Heather Forrest.

Heather Forrest: Thanks, J. Scott. And I'm just maybe clarifying the point that I just made in the chat, I think Phil and Kristine have both made excellent points and raised excellent questions, but I think, though much more broadly if I look at my notes on later questions in this list they're around, you know, I have comments leading, phrasing and so on. And I wonder if there are baseline things for everything that we're investigating, are there baseline questions, and one that I've forgotten that Phil raised that I forgot to put in my comment there is, you know, have there been unintended consequences?

I wonder are we able to simplify this exercise by, you know, identifying key topics, let's say, rather than thankfully worded questions and saying for each of these things, for example, ability to file a reply, challenge mechanisms and so on. Are we able to ask, one, has it been used? You know, if not, why not? What was the original purpose? Is this being fulfilled? Having unintended consequences. It seems to me that this picks up on the heart of the matter and gives us a bit of consistency in terms of what we're looking at and does so in a way that avoids, you know, for example 8 and 12 in my view are very leading questions. You know, so I wonder if that's a help. Thanks, J. Scott.

J. Scott Evans: Thank you, Heather. I think that is a very interesting and thoughtful way of going about this. Maybe what we could do is look at the charter questions that they presented and try to identify what is the problem that they're thinking exists or wanting information about to see if exists, just identify an objective problem and then - or mechanism within the URS such as timing or defaults or that kind of stuff, and then ask maybe a template set of questions with regards to those specific issues or mechanisms within the process.

You know, so one would be, you know, timing for default judgments, has it been used? If so, why not? You know, and just we have a list of questions that is applied to each of those issues. I wonder what other people think about something that sort of takes topics and then asks the same questions with regards to the topics. It's a little different approach than we've done with the other charter questions, but I'm not - I wonder if that doesn't really

hammer into, one, driving us to solutions, and two, template-izing questions that are just completely objective. Any thoughts? Okay...

((Crosstalk))

J. Scott Evans: Kristine Dorrain says it's not that different to - Claudio, go ahead.

Claudio DiGangi: Yes, no, I agree, I think that's a good idea if we could come up with maybe four or five questions and I think, you know, Phil was just typing something in the chat about having data. But sort of these high, you know, high level questions have those and, you know, maybe as we go through these see if we could agree that those set of questions should apply to a particular topic or particular question that we come up with. Yes.

J. Scott Evans: Okay. Okay. I think that's a good point. So maybe what we should do is do we think we can go through some of these questions and look at what they're seeking? So Question 1 clearly has to do with a respondent's - has to do with default judgments and the ability to have those reviewed after a default has been issued, that seems to be, to me.

And let's move down then, if we can move onto Question 2 and see what we're - are you capturing this, staff, something...

Julie Hedlund: Hi, this is Julie Hedlund from staff. Yes, capturing it but I'm doing it offline in the document itself if that's okay?

J. Scott Evans: That's okay, that's okay, I just wanted to make sure that I wasn't speaking too fast or moving...

((Crosstalk))

Julie Hedlund: No, perfect. Thank you so much, J. Scott. Sorry not to put my hand up.

J. Scott Evans: That's okay. So then we have a - question should the response be applicable to complainants listing 15 or more disputed domain names by the same registrant be eliminated? So I mean, again, you know, we could talk about response fees, you know, response fees in the URS and then ask, have they been used? If so, why not? You know, those types of questions with regards to that kind of thing.

You know, that's how I see this going. Are people comfortable with something like that where we take the issues, we lay them out and then we would ask a set of consensus-based questions against each targeted thing so that we can then, you know, do that. So I think our work here would be is to, you know, group these things into areas that are closely related that we can go through, I think. Yes, Heather thinks that this will be a much easier way to go to streamline our efforts. I'd love to hear from some of the other folks on the call. Heather.

Heather Forrest: Thanks, J. Scott. Just to say I know we're missing most of Europe so to the extent that you know, I think it's important that APAC folks make their thoughts on this known here, and then you probably want to take the idea on to the next call, although I would suggest...

((Crosstalk))

J. Scott Evans: Absolutely.

Heather Forrest: ...you know, of North America and APAC here. If we get enough momentum on this we could even start working before the next call before we get Europe back on, you know, work on it high level list of questions which I don't think is going to be very hard, we've really articulated them already. And that way you can present to the you know, the bigger group, let's say, when you have the call at that time zone what this could look like and that'll give them a bit more to work with. But I would encourage, let's say, speaking as an APAC person,

this is the time for us to speak up so I appreciate the opportunity, J. Scott. Thanks.

J. Scott Evans: I agree. So why don't we do this? Do we think we can come up with a list of proposed five high level questions template-ized that we could suggest to the other geographic members of this group who are not on this call for consideration so are there folks on the call that could suggest things that we would put in these template-ized questions that we could say, this is our idea. That doesn't mean these will be the exact questions but it would give us a way to get a better understanding of the concept of what we're speaking about.

So I think one question is, we would ask for everything, has the - has the mechanism or provision ever been used? And I'm leaving that - that would be sort of for staff mechanism provision in brackets because you would insert, you know, whatever your specific is into that and you would ask that specific question.

Then I think the next question is, so if so, how many? How often? Are there any identifiable issues that have arisen? If it is not being used, why not? And then I guess the last question would be, are there any changes - and I think Heather put it here - what changes - so Heather has - let me read into what Heather has put here. Oh Heather you're on - you've raised your hand again. I will allow you to do it.

Heather Forrest: Thanks, J. Scott. And I can read them in, and I just wanted to say I don't mean to throw cold water on it and I'm not in any way trying to dominate the discussion, but I'm thinking, J. Scott, you're going down the road of getting specific on use and saying if not, why not and all of that. I think if we could capture high level data points on each thing then lead to if like (unintelligible) questions on - in relation to each of the overreaching questions.

So the ones that I have, and by no means wedded to them, but it's what I have in the top of my head based on the interventions of Kristine and Phil, one, has it been used? Not going further into the why and why not and all of that have used, but one, has it been used? Two, what was the original purpose and is that purpose being fulfilled? Three, bearing in mind that purpose, have there been any unintended consequences? And I said for what changes could better align the mechanism with the original purpose or facilitate it to carry out that purpose. I'll put them forward as a straw man, J. Scott, to give us something to work with. Thanks.

J. Scott Evans: Kathy.

Kathy Kleiman: yes, you know, it's hard when we're starting on defenses, I think because this is, you know, we're trying to come up with kind of global or generic rules and we're looking at and it's really detailed issues. And I think you know, the questions may each require kind of a different examination. One thing I wouldn't do necessarily is take out the details. We're going to find a lot of people in our working group may not know that there's - the time to reply is up to a year.

They may not know that there's a response fee at 15 domain names, you know, different things. Let's not take out too many of the details that help provide some guideposts to what the actual underlying rules are since we haven't studied them in great detail and certainly I think our 150 members and many observers haven't memorized them. So let's keep some of that.

And you know, I worry a little bit about neutralizing the questions too much. People did come to us with questions, stakeholder groups did submit these. And there are some - and they do reflect some of the worries and concerns about balance, about fairness, about the senses, so I think at some point we have to keep in mind the underlying concerns. I'm not quite sure how we do that but I think that does have to be reflected.

So one of the key issues again is, you know, do people know about this? Why hasn't this been used, is something, so getting to the why which I've heard reflected in others. But let's not, you know, again lose all the details here. Thank you.

J. Scott Evans: Thanks, Kathy. I certainly didn't expect us - my personal perspective was that we wouldn't lose any of the details, we would have to set out that currently this is what the policy requires and then we would ask the necessary questions. Any other comments or concerns? Is there anything - for the Asia Pac folks, that have looked through or have any issues whether in these charter questions or with the URS in general that they would like to put on the record at this point? Zhou? You may be on mute because I'm not hearing you. I do see that your hand has been raised. Can you all hear me? Zhou, if you can't activate your mic you can type into the - I see you're going to try to type and then we will read your comment and/or question into the record.

Justine, if you'd like to go ahead and make your comment while we're waiting on Zhou to type in his, please feel free to do so. Okay, I'm going to call on Petter because his hand is raised. I can't hear Petter either. Can anyone hear Petter? I've turned on my computer as well.

Terri Agnew: Petter, this is Terri from staff. I do show where you're on the telephone but your line is muted. Please check your mute.

Petter Rindforth: Hi. Hi, sorry.

J. Scott Evans: There he is.

Petter Rindforth: Can you hear me now?

J. Scott Evans: Yes, sir.

Petter Rindforth: Yes, good. Well what I was trying to say is personally I think it's always good to have some kind of question, and I don't have the exact suggestion for it now, but for some to get a reply for those that wanted to use the system but haven't used it and what kind of changes they would like to see in order to make it efficient for use. So I think that's what turned out now to be Question 4 or Point 4 that was originally something related to those that haven't used it.

That said, I don't have a clear suggestion for that but it's - I think we also want to reach out to those that have not used the system to clarify if the reason for that. Thanks.

J. Scott Evans: Thanks so much. Did Zhou ever get his comment into the record? I'm not seeing here. I saw he said he'd try to type, perhaps he's still typing. Are there any other comments here with regard to the URS, any of these specific issues raised here that folks would like to get on the record? Heather.

Heather Forrest: I'm so sorry, J. Scott. I said I wouldn't intervene again. Just for clarity, I saw Kathy just put in a comment in the chat about if not why not? And I, you know, from my perspective I don't think that's what we should be asking in this high level set of questions. My last intervention on this (unintelligible) come up with four questions, let's not delve into sub questions of those questions because we're right back to where we started in this exercise and we're really just looking at the chart. I think we've, you know, we've done a good job in the chart, what the chart has proven that we have now is that it's going to be very difficult to agree on the wording of very detailed questions.

And we're looking for specific data points that and then be followed up with data from our data request and followed up with other investigation so I think to the extent that we move away from high level, you know, just for clarity I was not suggesting that we go down into sub points. You know, come up with a - if everyone's amenable come up with a high level list of questions, I've read those four that I'm happy to use as a straw man into the record, but just

to correct that point of Kathy's that it wasn't my view that we go into sub details, if you like. Thanks.

J. Scott Evans: Okay, so at this point I think we've got a draft set of points that Heather has made that we can present to the rest of the group with regards to these and sort of present our idea to the rest of the group. What I'd like to know is if there's anyone - there's any other comments because if not I think we could give everyone about 45 minutes of their time back this evening, this morning or this afternoon, and we can present this more detailed thought process because I think a lot of the angst and concern about having the call where there were a lot of people who feel like they've got a lot of comments those to Heather's point of trying to get to consensus on very detailed in the weeds sub questions and those kinds of things.

With regards to Kathy's concerns, I think that we can set out to the group here is what the policy states so if they're unaware of what the policy states, and how it works, there it is. Here are the questions we're going to ask with regards to that and then we can do that with each one. I mean, I think we can set this up and educate the group as to what mechanisms and/or concerns we're talking about and then still ask a high level objective questions to it, that's my personal view.

Maxim says, "J. Scott, I think there are not many of us and the responses need to be collected via the poll." Okay, would you like me to take a - asking Maxim, you wanted me to take a poll of whether the template-ized idea of asking these objective high level questions should be brought to the next group and whether this group agrees with that? Is that what you're wanting me to poll, Maxim? And then while you're asking that - okay, yes, all right. Before we go there, I will do that then. Mary.

Mary Wong: Thanks, J. Scott. So from the staff side we just wanted to ask a clarifying question in relation to what you summarized as next steps in relation also to the specific questions that Heather suggested. So what we're taking as an

action item for staff is that we should apply or as appropriate tweak the questions Heather suggested in relation to each topic that has been raised in the charter questions. And, you know, those are the questions in the left most column.

But our question to you and the group is, the questions that we have right now don't necessarily address all the different elements and components of the URS and you had said that what we probably want to do is to say, you know, here's the policy and here are the specific questions. So are we talking about just the topics that are highlighted in these questions as we have it? Or should we broaden that and go to every element of the policy and apply the questions that Heather has suggested? Thank you.

J. Scott Evans: This is J. Scott. My thought was we would tease out from the questions that the community has raised issues within forms of various questions at the various fora, what the mechanism and/or issue is from these questions, come down the list of topics and then with regards to those topics we would apply a high level set of questions to each topic. That was my thought, not going through every point of the policy. And I think Mary says she's got it.

Okay, so Maxim has requested that I take a poll of those on the call that - to see how many people feel that it would be appropriate that we present to the larger working group this concept that we've just been discussing and that is that we would, you know, just as I said, tease out from the charter questions that are presented here the issues that we're trying to resolve or we're trying to explore, and then ask a high level set of questions with regards to each of those and a lot of those questions would be template-ized meaning we'd be asking the same set of questions which are more data point questions with regards to everyone.

So with that, for those who are used to Adobe Connect, the way we take a poll is if you go up to the little man with his hand raised there is a dropdown menu and you can hit arrow or an X and that will let me know where we are. I

saw Claudio has - George's hand is up and I'm going to defer to him and during this time if people would respond to the poll. George. Okay, he's turned - okay people (unintelligible) the hands if you would leave your - and so everyone is understanding, I am in no way suggesting that this is what we will do, I'm only suggesting that we take that as a summation of this call and we present it on forward to the group. It may be rejected, it may change, but that is what I'm doing.

Rebecca, I think you may be the only person that's still on audio so I'd be happy to hear from you if you'd like to give us a verbal response. Oh, she's in the Adobe, I see now. Okay. If you could let us know, Rebecca, you know, you can vote like everyone. It looks like we've got a critical mass of folks who believe we should present this forward. I see Kathy's hand has come up.

Kathy Kleiman: Yes. Kathy Kleiman. And I have a question related to order. And so it's not directly relevant to the poll that you're taking but it is. I think again starting with defenses, is kind of starting at the end rather than the beginning. You know, normally when you analyze a set of regulatory rules, or judicial procedures, you start with things like notice. So we've got questions about notice, we've got questions about language. Then you look at the causes of action, then you look at the defenses, then you look at results and questions that you have about that.

So I think a lot of this would be much clearer for many people in the working group if we went through a traditional order, again, not starting at the end, starting at the beginning. And then, you know, we'll have a much better idea also whether this kind of grouping of questions will work. But, you know, it's a good idea to work through but again, I think reordering it will help everyone think about it much more easily. Thanks.

J. Scott Evans: Okay. Thank you, Kathy. I would ask that on the next call you make that point and during the interim, if you'd like to articulate that some way in writing to the list that would be very helpful. Kristine Dorrain.

Kristine Dorrain: Thank you. This is Kristine. And I'm wondering a little bit here, I know - maybe I'm circling back and I don't want to reinvent the wheel but we've - we've gone back and forth a little bit about whether or not this is a sub team or whether this is the full working group. And I just know that there's many of us on this call today that have sort of been on these sub teams and this sort of like backing the questions and organizing them and asking the questions is kind of a thing that we sort of figured out.

And I know that this is a small group of people on this call, and I'm wondering if - I know we talked about people maybe not showing up if they weren't interested in talking about URS, sort of effectively making this plenary working group a de facto sub team. So I'm just wondering where that line is on bringing things back. I voted to bring it back to the larger group, but I'm a little bit wondering if it's going to matter? I mean, this list might be the list of people who care.

I know having the Asia Pacific call might have changed things, but just want to throw that out there that bringing things back to the larger sub team is generally, you know, if we have sort of this track happening here it might just sort of end up delaying or slowing things down if the rest of the sub team is sort of assuming that - or the rest of the working group is assuming that a, quote unquote, sub team is going to handle it. Just thought I'd throw that out there as a consideration for if we do present it to the full group. Thanks.

J. Scott Evans: Yes, thanks, Kristine. The reason I keep saying this is we had three or four members this week who've raised issues of concern about not being on this call today. So there are people who passionately care who are not here tonight. And so it will at least be brought up for the next call. And anything we end up doing the final proposal would have to be consensus to the entire working group, you know, we're not going to keep bringing it back to get rehashed but we'd have to come to some sort of consensus with some sort of group. So that's where we are. Mary had a specific point she wanted to make

with regards to an earlier point Kathy made, so I'm going to call on Mary first, and then I'm going to go back to Phil.

Mary Wong: Thanks very much, J. Scott. And thanks, Kathy, for your observation. So I just wanted to observe here that the categories that you see in this table are the same as the categories with which we organize all the charter questions, (unintelligible) them at ICANN 60 in Abu Dhabi. So, you know, we would - as staff - welcome suggestions as to either reordering or whether we put certain specific questions in the wrong category. We did try our best to be as chronological as possible but for example, the reason why the first category is response is that we did not identify any questions specifically that had to do with say filing the complaint.

So if it does seem a little choppy it is because we did try to categorize the questions first based on generally the chronology of how a complaint would proceed through the system, but secondly, also based on the questions themselves. So where there wasn't, to us, a specific question on one particular stage in the process, we did not create a category for that process. So hopefully this is helpful as you look at the order, as Kathy suggests. Thanks, J. Scott.

J. Scott Evans: Thank you, Mary. Okay, Phil.

Philip S. Corwin Thanks, J. Scott. Phil for the record. And what I wanted to say here is I agree we shouldn't be - while we want to be evaluating the issues raised by the community and that may be raised by working group members, we're not here to rehash the decisions made back when the URS was created. The advantage we have is that when these rules for the URS were created, it was based on policy, you know, not speculation but policy decisions made in a vacuum without any experience. What we have is the benefit of experience.

And so for all of these questions as much as possible we should be - base whatever answers to the questions on data, identify the data. And there are

different types of questions here. We went through a few which had questions and we said before we can answer that question we have to know whether that aspect of the URS has been used. And that's data we need.

And then we have a question like Question 4 which basically is a question asking for data, are the expanded defenses of the URS being used and if so how, when and by whom? Well that's a question asking for data but we need to create a follow up question if that's going to go forward and say, well, once we have that data what's the question or what's the - what's the decision to be based on it? And then we have a question like Question 6 about should there be additional remedies such as a perpetual block? I think the predicate to that question is probably at least - is there anecdotal data that the availability of only suspension as a remedy has discouraged the use of the URS for black and white cases.

And so in all of these we want to say what's the facts? You know, and then what's the answer we should be - what's the question based on those facts that we want to answer. And I'll stop there but I think it's been a useful discussion and that's all I have right now. Thank you.

J. Scott Evans: Okay. Is there anyone else who has any further comments they'd like to make? Okay, if not, it's my hope that staff can, within the next 48 hours or so if not faster, sort of get a summary of this conversation out to the wider group so that they will have time to think about it. We had a few complaints about the turnaround time and it was not staff's fault, just the timing is what the timing is.

But if we could try to get a summary of tonight's call out to the wider group and have a discussion about some of the issues we've raised on the list, that would be extremely valuable. And then thank you, Heather. Heather says, "I'm happy to follow up with refining what is sent to the wider group if that's helpful." That would be very helpful. So we'll get that out to the list so that we

can have some robust discussion about some of the ideas that have been discussed tonight, I think that would be very helpful.

I think the - I am very much personally in favor of trying to identify template-ized questions that will sort of coalesce around where the charter questions are trying to get that are data-driven so, you know, I think Jeff and Phil have - Jeff Neuman and Phil have both raised over this - the 15th call - on the call today that the purpose here is not to renegotiate issues that were a matter of rough compromise some five or six years ago. The issue is to identify if there's data-driven identifiable problems and if so, how do we fix them? And that's what we need to be focused on.

So with that, I'm going to call us to a close 30 minutes early because there has been, you know, I think everybody I've asked two or three times if we've had additional comments and there haven't been any. But I would encourage those of you that are in the Asia Pacific to go through this chart and if you have comments or concerns with regard to this chart that you'd like to bring to the greater list, please do because we will be teasing from this list those issues that we're going to consider even if we do this template-ized data-driven approach more objective.

So if you have any issues, concerns or thoughts with regards to anything that's raised in this table, this is the time to bring it up and we'll be discussing it next week so you've got an entire week in order to sort of consider it and coalesce your thoughts and get it down to us and on the record, that would be very helpful. So with that I would say thank you very much for everyone's participation this evening, this morning, this afternoon depending on where you're located and I will now turn it to staff to tell us when our next call is and to conclude the call.

Terri Agnew: Hi, J. Scott. It's Terri from staff. And I do show the next call will be scheduled for Wednesday, December 6 and 1800 UTC for 90 minutes. I'll put it in chat as well.

J. Scott Evans: Thank you so very much. Good night everyone, good afternoon, good evening.

Terri Agnew: And once again, the meeting has been adjourned. Thank you very much for joining. Please remember to disconnect all remaining lines. And Operator, (Gene) you could stop all recordings. Everyone have a wonderful rest of your day.

END