ICANN
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GNSO: Review of all Rights Protection Mechanisms in all gTLDs (2 of 3)
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Phil Corwin: Good morning. I'll kick this off. I'm Philip Corwin. I'm one of three co-chairs of this working group. Thank you to everyone who is with us in the room. I haven't been able - my laptop is not cooperating so I'm not in Adobe Chat yet. I can't see how many we have. Online, we appreciate your being with us. We are going to be talking in this session about the consensus call process going forward because we've completed our UR surveys and beginning with our first working group meeting in July, we will begin talking about whether we should recommend any operational or policy changes in the URS and making decisions on that through the summer.

And then when we get the results of the analysis group, TMCH focused survey back in late August, we're going to begin the same process for the TMCH sunrise registrations and trademark claims notices. So the preliminary phase of this working group after all this time is finally drawing to a close and the decisional phase is approaching rapidly and our aim is to put out an initial report for public comment late this year or in January 2019. So I'll stop there, see if my other co-chairs have anything to say and then we'll get into this morning's presentation.

Our second session will be reviewing results of the survey sent out to the URS - three URS providers focusing on the questions whether their answers diverged, which seems significant since it's supposed to be uniform. I'll stop there. Brian, Kathy?

Brian Beckham: Thank you, Phil. Brian Beckham for the record. Nothing to add except to say thanks though for that recap and I believe we were going to do a little bit of a recap on how we got to the discussion we're going to have this morning on some procedural elements. And with that, I will see if Kathy has anything to add before we turn over to staff and John.

Kathy Kleiman: Sure. Kathy Kleiman, one of our three co-chairs, and thank you very much for joining us on this last day of the ICANN meeting, an early morning meeting. Could we have the next slide please? So as Phil mentioned, today is a discussion of procedural issues. Yesterday, we were talking about substantive issues, the data from the Uniform Rapid Suspension. At 10:15, 10:30, we'll be talking about more data from the Uniform Rapid Suspension.

But the question of what we do now, so as Phil mentioned, we started with the trademark clearinghouse questions and we're continuing with the Uniform Rapid Suspension questions. The umbrella for all of this is that these are all rights protection mechanisms created for new gTLDs. I think everyone in this room knows but just in case. So we started with TMCH. We're waiting for more data, took a break, did the URS. We're coming back to the TMCH and we have an interim report that will be on our horizon.

And so we're going to be talking about how we get to the recommendations that go in our interim report and we're kind of an unusual fish in the ICANN world, because we are the Review all Rights Protection Mechanisms. We're doing both - we're looking at existing policies. So in some ways, we're like a review team. We're looking at existing policy but we're also a PDP, a policy development process, so we can create new policy. So we're looking at kind of big picture issues. Are these new rights protection mechanisms, we're the first ones to look at it, are they fit for purpose and are they working according to policy? Are they working - are they following the rules that were created. And then also do things need - do substantive and procedural things need to be changed. So kind of big picture, little picture. And with that, I'm going to

toss it over to John McElwaine who is a member of the working group but really kicked off this discussion for us by raising some truly important questions that you're going to see answered in some of the next slides.

John McElwaine: Thanks, Kathy. John McElwaine for the record. So yes, the questions that we'll see here really just from a review of the working group manual, the PDP, sort of manual as well. So if you go into some of the documents that the GNSO has, there are procedures set out for how a working group should come up with its interim and its final report. But it's sort of a roadmap. And as Kathy said, we're not the typical working group because we're reviewing policy that's already in place.

So we do have this roadmap but there's a lot of details that need to be filled on those various waypoints that we're going to hit as we develop the interim and the final report. Along with that, this all kind of kicked off because I think we all would recognize that we've had, as a working group, some difficulties in putting together consensus or really having discussions that I think remained within scope. So one of the issues here is to start really taking a hard look at what is the scope of the working group, what is in and not within scope, to better understand how the interim and final report will come together I think will give people comfort as they're going through this process that their input is being taken down, it is going to be placed into the report, and they're going to have a better understanding of how those debates will ultimately end up as recommendations or what sort of weight they will be given.

And lastly, I think it was also interesting, as I mentioned before, we have issues that are probably more appropriate in Phase 2 and some issues that we couldn't really take a look at exactly because of GDPR. That being said, having really dived into some of the details with respect to the URS, I don't think it's a ton of stuff and obviously, it's all up for debate. But we have that additional element when we're going and preparing our interim and final report.

So I guess we can move onto the next slide and I'll kind of kick it over to staff. There's really just going over this process of putting together an interim and final report, really do have to thank staff. They did a great job. I just asked questions and they've added all the real substantive comments here. But to the extent that anybody has any questions of what I was getting at, I'm going to chime in. But also wanted to mention, we like to take down everybody's input. So this is meant to be a real interactive process here as staff goes over what are the different options and sort of the waypoints in putting together the interim report.

We really need to, as a working group, let our opinions be known and we can then start putting together this final roadmap that will get us to the final report. So I'll turn it over to staff. Thanks.

Mary Wong: Thank you chairs, thank you, John. This is Mary Wong from staff. I'm one of the team members supporting this effort and as John said, we put together some slides and Ariel, if you move to the next slide please. First off, let me say that all these slides have been posted to the working group workspace, and for those who are not members of the group but following this work in this session, they've also been posted to the ICANN meeting schedule.

These slides are arranged pretty much in order of the questions that John raised on behalf of the working group. They are somewhat wordy and I do not propose to read through them at 9:00 in the morning on the last day of an ICANN meeting. That's why I mentioned they've been posted but they are helpful.

I think the first point that we would like to make from the staff side is that while there are certain mandatory requirements under the GNSO's rules for policy development processes. For example, posting of reports for public comment. And of course, at the end, when we get to final recommendations, how the Council votes on them. Within the existing procedures and

guidelines, there is a fair amount of flexibility for each and every PDP working group to determine how best to arrive at consensus, that always being the ultimate objective.

I think as Kathy has said, this particular PDP working group does have some differences from others in the past and currently. One of the differences that we wanted to highlight here is that this is a PDP that's being conducted in two phases, I think as everyone knows. We are in phase one, which when it was chartered by the GNSO Council, it is supposed to be looking at all the rights protection mechanisms that were created for the 2012 program round, including the Uniform Rapid Suspension procedure or the URS, which we are looking at now through subteams, and as a group, but which was also based on an existing dispute resolution process, which we are looking at in Phase 2. Hence the origin of some of these process questions.

So these questions we provided some information to the chairs and to John when he raised these questions based on the procedures. Like I said, that sounds like (stability) and also based on what has typically been done for other PDP working groups. So we're providing this as information as a basis for this working group to determine within those frameworks how you wish to proceed with the topics at hand.

So typically, the initial report, and this is a draft this is prepared for review by the working group, and then published for community input through a mandatory public comment proceeding. You may be familiar with this in all the other PDPs in the GNSO. This is a critical step. However, within that initial report, while there is a template, which we followed as staff in drafting the initial version, there is flexibility for the group to determine what you want to put in it.

So for example, if a working group by the initial report phase has already reached agreement on possible preliminary recommendations, those will be put into the report with the wording of the recommendations as approved by

the working group, and we will take community comment on that. As part of the review of the public comments that you get, then as a working group you can decide whether or not that preliminary recommendation ought to be changed, whether in terms of text or in terms of substance, for example.

That initial report can and often does also contain open issues or questions. So it may be that a working group will be discussing a number of proposals. It could be two different proposals brought up by two different members. It could be three, five, or six proposals or it could simply be a single proposal where there is not yet any agreed language. And so for the purposes of progressing the work, you would put this into the initial report as an open issue.

You can call it out specifically when announcing the public comment proceedings, saying, hey, we've got all these preliminary recommendations. We'd love to hear what you think. We've also got these open issues that we would particularly love to hear what the community thinks because that will then assist us in driving towards consensus in the final report. And of course, to assist with the community's input, the draft initial report that staff prepares for you, and the final version of the initial report that you approve to go out for public comment will include some process background as well as a summary of how you arrived at either the preliminary recommendations or where you stand, or where certain groups may stand within the working group on the open issues.

So John, do you want me to stop here and take questions or you guys want to take questions?

John McElwaine: So just maybe a question on my part, as I - and I have talked with staff, but as I understand it, you all have been collecting and putting together notes and will go back through the transcripts to start putting together this report. Is that correct? Can you talk about that a little bit more?

Mary Wong: So the answer is yes. Essentially, all throughout the deliberative stages of a PDP working group, staff does keep notes and of course, we publish notes of all the meetings and all the calls that we send to the working group. We track all the action items and every now and then, we're very annoying because we keep coming back and saying, this has been an action item for three months, four months, what are you going to do about it. That is our role.

               We often, in a number of working groups, keep what I guess colloquially be called a parking lot document where proposals that were raised but perhaps didn't have any kind of traction are still recorded. Proposals that seem to have gotten some traction but the group has decided to park for the time being, we record those as well.

               So essentially, I guess, we've tried to function as the collective memory of the group from day one.

Kathy Kleiman: Do we have a queue?

Phil Corwin: I'm first and only right now. Phil Corwin for the record. I just want to say two things quickly here as kind of a prelude to going through the rest of the process, which we're going to be engaged in. One, I want to repeat a point I've made before in this working group quite a while ago. These RPMs evolved over two, three years of intense negotiation and debate. They were first developed by an IRT and then there was an STI IRT and then there was further long discussion of what the exact language should be in the applicant guidebook.

               So they're the result of a very long process of creating the rules for the new TLD program and where compromises were made by everyone. And the other - so that's the background and the other reality is that GNSO Council, unless a recommendation has either full consensus, which is basically unanimity, or consensus, which doesn't have a numerical voting value but in reality is like at least 85% or so support of the working group, they don't -

things that have serious opposition or divergence, they don't pass onto the Board.

And then even if something has consensus support, if it's going to attract consensus GAC opposition that's going to be registered with the Board, that's going to either delay board action or kill it. So our actual operating latitude for making changes in these RPMs is limited by those realities. So anyone who wants to create a new RPM or radically revise an existing RPM is going to have a real challenge in getting that to the required level of consensus. Conversely, anybody who wants to eliminate an RPM is going to face the same challenge.

The other thing, and it's going to be a difference in the next six months, the URS - John McElwaine a few months ago suggested we might want to go back to Council to revise our charter to move all the URS decisions into Phase 2, to be decided in conjunction with the UDRP and the URS as a supplement to the UDRP. When we really examined our charter, we found that if we submit certain minimums, which was basically evaluating whether URS is effective and is meeting its basic purpose, once we opined on that we had great latitude in deciding which URS decisions we will make in Phase 1 and which we could defer to Phase 2 either because we thought they were intermittently entwined with UDRP policy decisions or simply because we didn't have consensus yet, but we might develop consensus on them over the next year or two.

So we have that flexibility on URS to put issues forward into Phase 2. On the TMCH related RPMs, we don't have that flexibility. Whatever decisions are going to be made need to be made in Phase 1. So I'll stop there. I just wanted to give that background and point out the difference between flexibility on the URS and needing to make decisions on the TMCH and related RPMs in Phase 1. Thank you.

Mary Wong: Thank you, Phil, John, and everyone. So this is Mary from staff again and if
               we can go to the next slide. I will say that some of the items that Phil and I
               have described are covered by some of the later slides. So hopefully, this will
               leave some room for discussion. On this slide, you see a non-exhaustive list
               of the types of recommendations that in the GNSO's PDP manual it says it
               can come out of any PDP. I will say that, and Julie can correct me, but I don't
               think we've actually seen all of this in one single final report from a PDP
               working group. But we can do it and we can certainly put in other things.
               This is a non-exhaustive list. But what we did want to emphasize, and again,
               the driving force here is consensus. And so typically, when you see a final
               report, and the final report does follow from a working group review of the
               initial report and the public comments received to that, typically most people
               focus on what other consensus recommendations, and that's absolutely right.

               Because when there are consensus recommendations from a PDP working
               group, those typically are the ones that a GNSO Council will go forward to
               adopt since they represent the consensus of the community and those
               therefore will be the ones that are sent onto the Board for approval. And it
               does take a very high level of Board vote overturn GNSO super majority vote
               that says these are going to be consensus policies binding on contracted
               parties.

               But in addition, you see here that - and we have seen this in other working
               groups, you can, for example, put in implementation guidelines,
               recommendations for best practices, and so on and so forth. And I would
               highlight these two, best practices and implementation guidelines, because
               hat does seem to be some of the discussions that are going on in some of the
               URS subteams at least. So we just wanted to give you a sense of what the
               GNSO's manual actually says you can put in your final report when we get
               there.

               Can we go to the next slide please? And just to finish up the discussion of
               the initial or interim report, like I said, that's a necessary step to get us to the

consensus recommendations, to get us to the final report, whatever we put in the final report. Like we said, the staff produces an initial draft of the first report. That goes through a lot of discussion and review by the full working group, and as I've already mentioned, the final agreed version of the initial report can contain recommendations, open issues, and anything else you want to put in there that you want the community input on. But to get us to that point, it is an iterative process and it is a process that's driven by the working group under the guidance of the chair or the co-chairs.

And so we just wanted to emphasize this, especially as this group does have some new members who may not be experienced in GNSO PDPs. So John, shall I stop there for a second?

John McElwaine: So one of the reasons I asked this question is that I know on some of the sub-teams there have been debates over who has held the pen and where changes were made and how changes were made. And so one of the things that I think that we should talk about, we don't have to decide today, is how will the iterative process work. So how can we assure that, people, again, their input is being heard. The revisions that they're suggesting can or will be considered to be made and then how we can make sure that we have good document integrity. I'm just kind of curious if there's been some best practices form the staff perspective on that, that you could share, so that we can kind of understand.

Mary Wong: Thank you, John, and actually, Julie and I thought that a really helpful example in answer to your question may be for her as she also supports the new gTLD subsequent procedures working group, to describe what that group is doing in reaching its initial report, which is imminently about to be published.

Julie Hedlund: Thank you, Mary. This is Julie Hedlund from staff. So just to speak to that process a little bit, it has followed the process that's in the PDP manual, but

of course, there's not the level of detail that says exactly how the working group has to develop the initial draft.

So it did begin. The process began with staff pulling together a draft that was comprised of all of the transcripts, recordings, and notes of the deliberations and then recommendations that were found and areas where questions needed to be asked in the public comment and input sought.

And so this - because some of you may know, the initial report for the new subsequent procedures working group is a quite large, probably one of the largest that ever has been produced. And so what staff did was released sections - draft test sections to weekly meetings. So before each weekly working group meeting, full working group meeting, staff would release sections of the draft report, and then those sections would be discussed in detail at a meeting.

And so the text really was read out during the meeting and discussed very thoroughly. And then the working group members were invited to provide comments to that text, questions and comments, revisions. They were asked to provide specific text and indicate where those revisions should be made. Staff has incorporated those. That process is now being finalized so that a final draft is now being redlined, final draft, so that the working group members can see where their comments, and questions, and new text have been captured. It's now being reviewed and then the document will go out for public comment next week.

So it's been an iterative process, has involved a text in Word and PDF versions, but also staff maintaining a Google document that can be edited in real time and staff providing redlines to indicate where changes have been made. So that perhaps gives you an idea of some of the tools that could be used by this RPM working group as you consider how to develop the initial report.

Brian Beckham: This is Brian Beckham for the record. I recognize Greg Shatan has a
question and Susan Payne as well.

Greg Shatan: This is Greg Shatan for the record. As a participant in that other working
group, let me provide a different view of the working method, which is
perhaps a little less objective. What is being considered as the report is by
and large the output of separate work tracks, which have not been fully
discussed much less brought to any form of consensus in the working group
as a whole. A lot of what is in there are kind of alternatives, and half-baked
ideas, and spaghetti thrown against the wall, some of it sticking, some of it
not.

I would not call it whatever the term is in the PDP manual, an initial report.
More I would call it report 0.5. It is not something that subject to public
comment will turn into a final report, which is how I typically view the first
report that comes out of a working group. Clearly, for instance, the CCWG
IANA did not have such a thing. I think we had three or four reports because
the first couple were kind of roundly rejected by at least in certain corridors.

But by and large, you typically see two reports out of a group, one which is
kind of the working draft and subject to comment, and the other, which is the
report. This working draft cannot turn into a report. It's a smorgasbord.
There's some good work in there by the work tracks. There's very little good
work in there by the working group. It's something that I think is troublesome
in that regard. Thanks.

Brian Beckham: Thank you, Greg. Susan Payne?

Susan Payne: Thanks. It's Susan Payne. I want to just comment briefly on what Greg was
saying. That wasn't why I put my hand up, but just - my sense of what Julie
was telling us was more about process rather than the specific nature of the
content of the SubPro report. I don't think there was a suggestion that we
would necessarily follow the content type structure in terms of having

something that is a report 0.5 or whatever you called it. My understanding of what Julie was telling us was more about the process of producing the report.

And I had a question, which was in terms of working group numbers, you talked about members being able to make comments and suggestions to text, and additions, and so on. Could you talk more about or could we talk more about how we will do that? For example, how will we work out whether a comment from me, for example, has the necessary kind of support from a wider group or does my comment automatically get into the text because I make it? Can we talk a bit about that?

Brian Beckham: Thank you, Susan. Jim Prendergast had a question or comment.

Jim Prendergast: Thanks. Jim Prendergast. I'm an observer but appreciate the opportunity to take to the mic. Like Greg, I am also a participant in the other work track and not necessarily following along what Greg said, but just to maybe give you some experience and advice based upon what we've been going through, this sprint for the last nine weeks. Staff has done a heroic effort trying to get these sections out to the working group in a timely manner. And many times, in situations beyond their control, those have come out closer to the meeting than I think is ideal. So one piece of advice I would give you is as you're chunking this up and getting it out to the group to review, give adequate time for the members of the group to review it. Because you're trying to recall conversations and deliberations that took place months, weeks, even years ago. So referring back to the transcripts, the recordings is sometimes necessary to ensure that the deliberations were accurately captured.

But as I said at the beginning, staff on this - on the SubPro is really trying their best to get this out, and the size of it, but also the internal workings and the bureaucracy around it. So to the co-chairs, I would say be on top of it when you're working with staff as well as let them do their job and get it out as quickly as possible as well.

Phil Corwin: Phil Corwin for the record. Some brief response. Number one, it is the intent of the co-chairs at this time, and unless we hear differently from the working group, we'll continue to pursue it, have our initial report contain concrete policy proposals for any modifications of the URS and RPMs to get community comment. We don't need consensus support to put those out as long as there's a significant portion of the working group who thinks an idea has merit. We put it out for comment to find out if the community loves it, or hates it, or is divided on it because that's going to help us in reaching better informed agreement on final proposals for the final report.

So as far as vetting everything in the full working group, our practice most recently we found that the use of subteams focused on particular issues has been highly efficient and has allowed us to multi-track and we've done that to keep to our timeline. But we bring everything back for full vetting in the full working group. Nothing is going to be in that report that's only gone through sub-teams.

How the process will work, let me - I think it will work - the working group will determine it but, you know, let's say some - when we get to URS discussion, which is going to start in July and we have I think sufficient time in July and August to have full vetting of any suggestions for alterations of the URS. Let's say, and I'm not endorsing this, I'm just giving you an example, let's say some member says based on feedback we've gotten from the practitioner survey and other things we heard, I think it would be good if we increased the word limit for the complainant from 500 words to 1,000 words and to balance things out to increase the respondents word limit from 2,000 words to 2,500 so they have more space to respond to that. Somebody will put it on the table. We'll discuss it and see what the level of support and opposition is. And again, we don't need consensus to put something in the initial report for community comment. We just need to know that a significant portion of the working group thinks it's a sound enough proposal to seek feedback on it.

So I'll stop there. Those are my personal views but I think certainly on what our initial report will contain that it will contain actual recommendations and not just ask for comments on more amorphous ideas. That's the way we're going and frankly, that's the only way we can go and stick to our timeline. Thank you.

Kathy Kleiman: So this is Kathy Kleiman. These are good questions and it's a good process that we're thinking about. In addition to the policy proposals, I can see us having operational proposals where we say policy says X, the practice is Y, maybe they should correspond. Probably less controversial types of recommendations.

It is working from the bottom up. We've got the subteams who - and the data, the data that's being presented here moving into the recommendations that are coming up to the full working group. So hopefully what comes in the report will be things people have seen, and talked about, and been part of. One thing I wanted to throw out is how people felt about letting the staff hold the pen on a document like this of our interim report.

We've had situations in subteams where everyone kind of can write into a Google doc but we have 150 members and that's a lot of people writing into the same Google doc. So we can set it to suggest mode. We can set it to track changes. Or what we can do is have staff holding the pen and listening to the suggestions that are coming on in the meetings as well as on the list. And doing it in some kind of form where people can see the edits, review them and respond. But one or two people holding the pen might be a good way to do it in this particular case. Just throwing it out there.

Brian Beckham: Lori Schulman.

Lori Schulman: It's Lori Schulman for the record. Good morning everyone. Kathy, I see your points and I would actually in this instance favor staff holding the pen initially. We can always edit as a group but I think trying to designate a pen holder, a

(unintelligible) of pen holders given the different views on this working group and some of the issues that we're still going through, I think it will just create a burden on the working group that it doesn't really have yet. We're still breaking down into subteams. We're still working on the survey. There's an enormous amount of legwork we're still doing. So I have no objections, particularly because we have such qualified staff.

John?

John McElwaine: I think we have a queue building. We have Susan, Michael in the Adobe connect.

Mary Wong: So where we have is Brian, Greg, David McAuley, and then Michael's hand just went up. I don't know, Susan, if you had - no. So it's Brian, Greg, David, and Michael.

Brian Beckham: Thanks, Mary. I'm happy actually to hold my question and let others go and we can see if it's answered and come back to it if not. So I think it was Susan - Greg.

Greg Shatan: Greg Shatan for the record. Like Lori in this case, I would favor staff holding the pen with editing rights in suggest mode going to the workgroup. I think, first, I also want to say that no criticism of staff in the other working group was intended. They have done in fact a heroic job. I think there's just intense pressure to put something out in a certain timeframe and the only way to do that was essentially to bypass the work of the full working group but that was certainly not staff's decision. And I would also say that in this working group, we are not, as was pointed out by Phil, bypassing the deliberative actions of the full working group. In that other working group, the only comments that seemed to be allowed on the text presented from the work track is our comments on clarity, but not any changes on substance.

So I would say that the work of this - the work process of this group, putting aside where URS should be fully vetted has been exemplary and staff support has been phenomenal. And I think that a system where the staff sets up the document and then the working group both in the document, in the email list, and in the meeting has at it, so to speak, will work quite well. Thank you.

David McAuley: Thanks, Mary. David McAuley for the record. Kathy, since you asked I thought I would put my voice to saying yes, I think it's a great idea to have staff hold the pen. Phenomenal. I think I'll use Greg's word. They've done phenomenal work. I also wanted to add a note of caution if we do get into a lengthy report and we start - Julie is telling us what the SubPro group is doing with section by section. I can't comment on that. I'm not a part of the that subgroup. I am a part of work track 5 though, but if we do that here, we have to recognize that long documents have internal dependencies and it wouldn't be right, I think, to let the first group to go in effect to shape the whole thing without giving due consideration to the things that come behind. We can do that. Maybe sometimes it's so unwieldy that you have to do that, but let's be cautious and make sure that we give due consideration to all. We have to recognize sometimes that these things do take time. That's all. So thanks very much.

John McElwaine: Michael?

Michael Graham: Thanks. Michael Graham for the record. I agree. I think having staff hold the initial pen is a great idea and addressing David's point, I think that also helps with the consistency throughout, having that sort of source. But one sort of consideration I would make in that process though as well is I think we really, since I have been a member of the working group, really utilized sub-teams, the subject matter, and then the data teams really well.

And I think in this process, we might consider having members of those subteams, I can't even remember which subteam I was on. I think it was

trademark claims. Who knows. But going back and finding out who those people are and if any of them would want to assist staff in that sort of being the voice so that there would be an initial pen from the member of one of those subgroups also working with staff. That way we would be able to, I think, include the comments and the perceptions of the working group members with the staff, and at the same time be able to avoid having 15 pens on each part. But I think that we can utilize all of the time and the focus that we as members have made in these particular subject areas, and assist staff, and move this forward at a reasonable pace. Thanks.

Susan Payne: Hi, thank you. Susan Payne. Again, I equally would support staff holding the pen and support the comments previously about the phenomenal work that they've been doing. I think that that would be very beneficial. I also would support the idea that we have kind of suggest mode maybe rather than people redlining the document even just so that we can have some kind of version control and understanding of who's making what suggestions and what has been approved and what hasn't.

I also just wanted to perhaps request that we could think about doing something like a closing date for amendments in advance of an actual meeting to make sure that there's a cutoff point for people to make comments, which doesn't stop comments being made later. But just ensures that when everyone comes to the meeting, they're looking at the same version of the document as the one that's sort of on the screen and they've previously prepared on. And also to sort of think about perhaps again the kind of version control thing.

In some of our subgroups, we've had the document open and being edited as we go along, and I think in a small subgroup of six or so people that can be manageable to be making changes to the text on the fly. But we have also, I would say, had some situations where we've gone past a section and sort of behind us as we've moved onto a new section someone is editing behind the document. And that I think again can be problematic, particularly if the

groups get bigger, just to be sure if text has been changed that that's text that everyone has actually looked at agreed and it doesn't sort of make its way into a document where everyone thinks we've reviewed that section and it's fine, but in fact the text in question is now different.

So just a few suggestions and again, it's easier to do that kind of stuff when you're in a group of, say, six people and it's all very collaborative. When you're in a working group of 100 plus, really not possible to manage in that way.

John McElwaine: Brian?

Brian Beckham: Thank you, John, and thank you Susan. I first want to say is really encouraging that this is consensus building at work and it's great to see there seems to be support for staff holding the pen. I fully second that. It's going to be a good amount of work going into this and to the extent we can lean on staff, I think that's a really good use of everyone's time and resources.

I wanted to pick up on a comment and question from Susan and Jim Prendergast, and look to Mary and Julie to see. So there was this kind of hybrid idea of both in substantive and timing terms how we draw things together. And I wonder if Jim had a suggestion of getting things in front of the working group sufficiently in advance of discussions.

And I wonder if from staff's perspective in building other draft reports, if you have any experiences to share, best practices on how we manage that both in terms of timing in advance, getting things in front of people, and allowing sufficient air for the conversations to coalesce around consensus. And when do we sort of draw a line under things and move on?

Mary Wong: Thanks Brian and everyone. This is Mary from staff. So I think what's been evident is that there is a variety of tools and processes that may be peculiar to particular working groups and that's why it's important that this group

decides how best you want to proceed. So for example, while Google docs has been used increasingly, this may or may not be a good tool for specific tasks. So we shouldn't assume that we must therefore use a Google doc. That is not part of the operating procedures.

But if you do decide to use a Google doc then some of the suggestions that were made today, whether you have agreement up front I think is essentially what everyone is driving at. So an agreement up front to close out at a certain point in time. We did do this in I think at least one of the subteams. There was agreement that the staff would lock the Google doc at, I think it was 24 hours or 12 hours before the meeting. I think either that subteam or a different subteam, it was in comments mode. Because even with six or eight people, the document becomes quite dense if everyone is going in at the same hour, at the 26th hour before we closed the document. That makes it quite complicated.

So having those agreements up front we think has been really helpful. Agreeing on what the appropriate tools is really, really helpful. And in that regard, the working group guidelines do have some general guidelines. So for example, ideally, we should have an agenda out to the group, whether it's a subteam or working group, 24 hours in advance of a meeting. It's not always as possible, as we've seen. But that's the recommended timeframe. So that may be a useful timeframe for this group and the subteams to use.

There's also another working group guideline that basically encourages members in participating not to reopen closed issues at a certain point in time, if it's quite clear or there's some agreement amongst the group that the issue has been discussed. That doesn't mean that it can't be raised at, say, the full working group level and brought back in public comments. But moving back to an issue that's been closed doesn't just cause delay but it does impede progress towards consensus.

And of course, in all of this, the staff takes direction from the chairs and of course from the working group.

Phil Corwin: Phil Corwin. I'll be brief because I just want to let you know we have 21 minutes left for this session. In regard to staff initially holding the pen, I fully endorse that, am comfortable with that. Staff is very professional. Staff is very dedicated to trying to reflect accurately the views expressed by members of the working group. And of course, what they give us as a draft is not the last word before the working group members ever see it. And of these documents, whether it's slides or anything else, the co-chairs review everything. We have our own discussion about whether some time was missed or whether it's s an accurate rendition, and then the full working group gets to look at it. So we've got two layers of review after staff gives us an initial document.

And Susan, I wanted to say your suggestion, I think it's a very good idea to present something for our first working group meeting in July, which will be Wednesday the 10th, not next Wednesday, which is both the week after this meeting and a big U.S. holiday. Where we propose some basic procedurals by when do proposals for modifying anything about the URS need to be in. So we know how many things we have to discuss and where - how many proposals there might be on evidentiary standard or some other issue. So we can organize our work.

And when, even though nothing is fully shut down until we get to consensus call, when for this process purpose, when an issue is going to be closed out, what we don't want is some suggestion on a really controversial comment at the end of August or a proposal for modifying something we already thought we agreed to.

So I think we could have a good discussion at the co-chair level about coming back to the workgroup for some suggestions how - just basic procedural rules for how to deal with this first URS decisional phase. Thank you.

John McElwaine: I think in the queue right now, we've got Kristine, Michael, and then Kathy. Okay. Kristine?

Kristine Dorrain: Thanks, Kristine Dorrain. I maybe missed this part but can we be really clear, I thought that staff was talking about an interim report on Phase 1 versus Phase 2. Is this interim report only on URS or is it on all of Phase 1? That's the first part of the question. And then I know we were talking about a couple of dates, but is there sort of a timeline as to when we're thinking this interim report will initially be - when we'll start this process? And apologies if I missed both of those things.

Mary Wong: So in answer to the two questions. Answer number one to question one is Phase 1, not just the URS, however Phase 1 ends up being. Answer to the second question. We did consult with the co-chairs and staff produced a timeline that was circulated to chairs and I think more recently to the working group that we can recirculate. We can also post it. Assuming that we continue to make the progress in the subteams that we have and assuming that we do get the results back in for the sunrise and claims survey that's going out next month, the ideal position this group should be in as a working group is to start to develop preliminary recommendations.

And I use the term preliminary recommendations because we are talking about an initial report around the fall or autumn of this year. And the idea then is that by early next year, so let's say January timeframe, that those preliminary recommendations really start to have some meet. And with the idea of going to public comment with the full initial report for Phase 1 sometime around the end of the first quarter or the next ICANN meeting. That's the current timeline.

Kristine Dorrain: Thank you. That's very helpful, Mary.

John McElwaine: Michael?

Michael Graham: Thanks, Michael for the record, Michael Graham. I have two, well, one question and one comment and just, I think we have agreement on a basic way forward with the pen, but I just wanted to point out that working on an incredibly complex project in which Mary was really instrumental and that was the policy and implementation working group. In that case, staff held the pen and came up with an incredible document and it moved forward quite well and quite quickly. It was a great way to give focus so I think we're in good hands with that, with Julie, and Mary, and the team.

I guess my question is in regard to that timeline, Mary, does that include sort of looking at we're getting back, well, we presume we're getting back the answers to the surveys and does that include the works - the data team looking at that, how we're going to handle that, and by which dates that team would present some not only the results but also their analysis of those results to bring back to the PDP for then discussion of what sort of proposals might run from that? Is that built into that schedule or is that too granular? Thanks.

Mary Wong: It is.

Kathy Kleiman: And point of clarification. This is Kathy. Michael is referring to the TMCH data subteam now, right, the survey that's going out on the trademark clearinghouse questions with all our data subteams.

Brian Beckham: I think Kristine had a follow-up question.

Kristine Dorrain: Yes, thank you and perhaps this is a little bit of a point of difference. So we had actually - there's actually four subteams for the TMCH. There are the three substantive subteams that actually went through the charter questions and will be meeting to confer and discuss the charter questions. The data subteam is literally just compiling the survey. So it's not the data subteam that will be going through the survey results, and analyzing them, and

answering the charter questions, and making recommendations. It's my understanding that the data subteam will look at the data, kind of yes, that looks great and then they're going to send it back to all three of the original subteams. Is that a correct understanding?

So the original one, we have the original one for sunrise that Lori chaired, the original one for claims that Michael and I chaired, and then there's another one that I don't - the TMCH one. And so those are the actual people that came up with the questions and developed those charters, and those are the teams that need to be reviewing the data, not just a handful of people working on the survey itself I think.

Yes, thank you, Kristine. It's a good question. Maybe just in the interest of time we can take that question about how we filter the subteam results, sorry, the data results back to the original subteams and have a second look at the timeline. And if we need to make revisions so that, we can circle that back to the working group.

But I wonder just because we have 15 minutes left if it's useful to move onto the next slide.

Kathy Kleiman: Actually, I did want to add something. So Kathy Kleiman and part of me is thinking we should leave a note for the next review team, the next PDP of what we've learned, lessons learned on procedures because we've learned a lot by trial and error and we're really coming up with some best practices and some good ideas for how we move forward.

I wish we had a big whiteboard because I'm hearing things on timing and I just wanted to put it together that - and see if people disagree. So the URS data subteams are reporting back recommendations. We're going to try to set deadlines for being due probably in August. Perhaps, and here I'm taking something - some notes from a discussion with John, perhaps a straw man of an interim report might be put for review and discussion just beginning

frameworks and then start filling it in with the URS as that emerges with open areas for the trademark clearinghouse.

So not a document that emerges from the whole (unintelligible) but a straw man that begins to emerge. So and then we go back to the trademark clearinghouse. We go back to the data, figure out how that data is analyzed. The other timing I wanted to let you know is timing of meetings in case you want to talk with us. We meet on Wednesdays generally and then the co-chairs meet on Fridays, now Friday morning Eastern time. And then we try to get the agenda set to go out Friday afternoon or Monday morning. So just wanted to let you know, and then we go back and we meet again on Wednesday. So a good day to lock the document might be Tuesday morning, giving it 24 hours, with 150 people, giving 24 hours so there's at least that amount of time to review. So kind of looking at a week in the lifecycle of this working group. Wednesday, Friday, Monday, Tuesday. Thank you.

Mary Wong: And actually, I don't think there are that many slides but just to remind folks about the idea here to get consensus. What we have on this slide is something that was already referenced earlier that in the working group guidelines there are very specific levels of consensus that it is the responsibility of the chairs to designate at the appropriate time. These range from full consensus or consensus, which are different in the GNSO, to divergence and minority views.

We do want to emphasize two things that this is an iterative process and at the appropriate time, and that time may vary from group to group, the chairs basically say, okay, this is our initial sense of where the group is. And that is published to the group and that is discussed.

Because sometimes, the impressions of some members may be very different, or the chairs may be taking into factors that need to be further explained or highlighted to the group. The second thing that we wanted to

emphasize here is that because we are talking right now about an initial report from this working group to be published in Q1 of next year, not the final report, because that final report can only follow after you review the community comments.

What we want to highlight is that for purposes of the initial report, we typically do not do formal consensus calls. So it really is the sense of the group led by the chairs and that's why for the initial report, we say preliminary recommendations because they are preliminary at that stage. And so hopefully that's a helpful sense of background for what's on this slide.

John McElwaine: I think the only thing I would add here, and maybe it's in the form of a question. We have three co-chairs so has there ever been a situation where there's been sort of a split amongst the co-chairs and whether consensus was reached?

Mary Wong: So it's only been quite recent - sorry, it's Mary from staff again - it's only been fairly recently in the GNSO that we have gone to a model where there's been co-chairs. I think in the past - and there's many reasons for this including the sizes of the working group that we're seeing and the complexity of the issues that we're dealing with. In the past, it was a chair perhaps assisted by one or two vice-chairs. Now, we're seeing co-chairs. We're also seeing work track leads.

So in my recollection, I'm looking at my colleagues here, we have not encountered a situation where there has been deadlock amongst the leadership team, at least not for purposes of publishing reports and consensus levels. And I think Phil has a comment.

Phil Corwin: Yes, I just wanted to say I have no idea on substantive policy or operational issues whether co-chairs will agree or disagree with proposals that may come forward from the working group. But that's not our role. Our role is to agree on process. Our role is to administer the working group in a fair and efficient

way and I don't - we haven't had any issues in reaching agreement on procedures for going forward and I don't anticipate facing those kinds of issues. Thank you.

Mary Wong: Shall we move on? There's a remote question I think.

Ariel Liang: This is Ariel from staff. And there's a remote comment from George Kirikos, a question actually. Is it possible that decisiveness, is there a potential for a second public comment period at some point allowed for in the working group guidelines?

Mary Wong: Yes, basically if you look at the working group guidelines in the PDP manual, there are some minimum requirements but again, there's flexibility for the group. And so if the group feels that it wants to do a couple of initial reports and a couple of public comment periods, that is well within the intent and spirit. Because the idea is to get as much input as possible from the rest of the community.

Similarly, and we're going to get there, with the final report, there is no requirement that the final report be published for public comment, which may come as a surprise to some people. The requirement is for the initial report. But a working group does have the flexibility and the ability to say, actually, we want our draft final report to be published for public comment before we send it to the GNSO Council. So there is that possibility.

So in the absence of any other hands or comments, so here now, we're in the phase where we've got the initial report out. The initial report probably will contain some preliminary recommendations where there's some sense of the group that you're coalescing around certain recommendations. It may contain some other ideas that you're putting out to the community for feedback. It may contain some open issues where the group hasn't reached consensus or agreement and would like community feedback on all of the above.

Then when the feedback comes in, the requirement is that the working group must review and address all public comments received and the report, the final report has to document how the group addressed the input that was received. You don't have to do an exhaustive point by point recitation, but there has to be a decision in the report as to how you reviewed and addressed the comments. Typically, instead of attaching all the public comments to the final report, because that would make a lengthy document very, very lengthy, we do note the links to the public comments.

We also on the staff side, prepare, as we say on this slide, a public comment review tool. It's actually just a table where we will break out how many comments were received, how many were in support of preliminary recommendation one, how many were not in support, how many made additional recommendations. And we may also include excerpts from those comments. What we want to emphasize here is the third bullet point that while staff will do this as a facilitative aid to the group, it does not replace actual review or reading of the comments, particularly the substantive comments received.

You may choose to do this through subteams depending on how many recommendations you have, depending on whether you want to have teams review different RPMs. That's totally up to the group. So hopefully that's helpful, John.

John McElwaine: You were on the other slide weren't you? Julie, can you?

Julie Hedlund: Oh, I'm sorry.

Mary Wong: Sorry, I should have noticed. I'll just pause for 30 seconds while people cycle through this slide. I think it's the next one, Ariel.

John McElwaine: One more.

Mary Wong:	The one previous. We've had some jumpy Adobe. So this is essentially the slide I was on. Apologies again for the puzzled looks. I just thought it was lack of coffee. So that's what I was trying to describe, John.

John McElwaine:	So I think the next slide is probably the last substantive slide. And again, we are at the stage now where you've reviewed the public comments. You've decided how you want to address them and we're doing essentially a draft final report. And again, typically that's a draft that's produced by staff, again, for full working group discussion and review. And actually, in this context, in relation to part of the earlier discussion, a lot of this is the best judgment from the staff side of what the text might look like.

	We're not perfect. Far from it. And the reason for publishing it to everybody and taking direction from the chairs is to the extent that we've misinterpreted something, to the extent that we've basically highlighted a particular proposal at the expense of another, that's really the iterative process. So the staff draft is really just an initial draft and the process for the final report is very, very similar to what we described for the initial report with the exception, of course, that the final text of your recommendations, whether it be for consensus policy, or best practices, or implementation guidance, that is the text that will be approved, or not, by the Council and the Board.

Michael Graham:	Michael Graham for the record. Just real quick, a suggestion. I know this is in the future but in - as part of that review tool, in other working groups I found it very useful both in the process and then also in reporting back to the community for that tool to include where we have specific questions or comments that have come in. Those are collected together under the various subjects and actually put in a chart that includes then another column, which has the PDP's response to those. So that we end up with a report that not only shows what our initial proposals were in the report, what the public comments were, and how those were addressed, which has come in very handy then later on. Thanks.

Phil Corwin: This is Phil. Two quick comments. One, so far as a second round of comments, we'll deal with that as - our intent right now and we're not slaves to the timeline, but we'd like to meet the timeline, particularly because we have very important work scheduled to start mid-2019 in the first ever UDRP review. I wouldn't envision a second round of comments on all the recommendations. I think if we find one or two where we hear feedback from the community and we come out with a substantially revised recommendation and want comment - targeted comment on one or two significant issues where we've changed a recommendation substantially, we might want to do that.

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I'll defer to staff. I don't think we're obliged to have 40 or 45 day comment periods. We could come back on a specific question with a 20-day comment period just to get community feedback. And the other thing is that even though we're not required - our charter does not require a final report to go to Council at the end of Phase 1, we do have this safety valve of URS issues, which are entwined with UDRP, or we just don't have consensus in Phase 1, we can defer them. to Phase 2.

My personal view is that if we've reached consensus on some URS issues and certainly the TMCH and related RPMs, if we've reached consensus on recommended changes, we should put out a final report so council can consider that in 2019. There's absolutely no reason why things that aren't related to UDRP that we have consensus on should wait another year or two.

Kathy Kleiman: URS.

Phil Corwin: No, I'm talking about the UDRP report. There's no reason why consensus recommendations to modify TMCH or even URS should wait for Council review until 2021 or 2022 when we finish the UDRP portion. If we have agreement, they should be implemented near term, not years afterwards. That's my personal view. Thank you.

John McElwaine: We're at the end of the meeting. Let me just summarize him with the recommendation was - and I think actually heard Phil already skip to this slide is for us to take the input, I've been taking notes, I know staff has as well, and then perhaps make a recommendation back to the working group with things such as adequate time to review drafts, staff to hold the pen, how long comment periods, how comment periods will work, timeframes, and things such as that, so that we have sort of a plan going forward.

Kathy Kleiman: I think that makes sense. This is Kathy and I wanted to thank John for really kicking this discussion off and joining us in planning it as co-chairs and for the discussion here. This was long in coming and hopefully helps blaze a path for what we're doing going forward.

Julie Hedlund: Thank you everyone for joining us for this session. We do have a break until 10:30 where we will start the third of our RPM PDP working group session. So we hope you can join us then. In the meantime, we'll go ahead and adjourn this session and again thank you all for joining.

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