ICANN72 | Virtual Annual General Meeting – GNSO: IPC Membership Meeting
Wednesday, October 27, 2021 – 16:30 to 17:30 PDT

BRENDA BREWER:	Good morning, good afternoon, and good evening. Welcome to the Intellectual Property Constituency Membership session at ICANN72 on Wednesday, 27 October 2021. My name is Brenda Brewer and I am the remote participation manager for this session.
	Please note that this session is being recorded and follows the ICANN Expected Standards of Behavior. If you would like to ask a question or make a comment verbally, please raise your hand from the reactions icon on the menu bar. When called upon, kindly unmute your microphone and take the floor. State your first and last name clearly and at a reasonable pace, and mute your microphone when you're done speaking. I am pleased to introduce the chair of IPC, Heather Forrest. Thank you.
HEATHER FORREST:	Thanks very much, Brenda. Good morning, good afternoon, and good evening. As we say in ICANN land, welcome to the IPC's Open Meeting for ICANN72. It's really lovely to see so many familiar faces in the participants list and indeed new faces as well. Very sincere welcome to each and all of you. We reached out to a number of folks on a sort of one-on-one basis, given the topics that we have on the agenda today, which you see in front of you. We'll acknowledge as a sort of macro level thanks to everyone who has attended.

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As you can see from the agenda today, our intention is not to take you through sort of step traipse through IPC day-to-day business. We don't think that that's the best use of an ICANN public meeting schedule. Rather, we've chosen topics that we would like to talk about that we know we are interested in as a group. But we think as well that there are others out there in the community who are likewise interested in these topics. And to be very, very clear, I think our intention is not so much that you sit here and listen to us drawn on these topics, although certainly IPC members will kick off the discussion and contribute to the discussion. But let's say we would equally value the opportunity to hear what you have to say on these topics, and furthermore, really, do you agree with what we have to say or do you have different views? So this is truly an exchange of views type intention. As I say, it's wonderful to have such a broad range of participants on the call. So we hope that that will lead to a fairly lively discussion.

With that, the very first item on our agenda, I will turn to Paul McGrady. Paul, forgive me, in fact, I should note that there's a correction, really, needed or clarification. At the time that this agenda was published, Paul was our policy coordinator within the IPC. Paul, about an hour and a half ago, I suppose, you've taken your seat on the GNSO Council as the NomCom appointee for the Non-Contracted Parties House. With that, Paul is going to be significantly less involved and, dare I say, entirely less involved in IPC matters as he focuses his attention on Council and the important role of representing the entire house, not just a single constituency or even stakeholder group. But,

Paul, you were the champion and the spearhead of what I think is a really important initiative to come out of the IPC this year that the leadership team fully supported. You've had some tremendous input from IPC members, and this is our opportunity to tell the broader ICANN community about the Civility Pledge. So with that, I'd like to turn it over to you. Thank you.

PAUL MCGRADY: Thanks, Heather. I appreciate the opportunity to present this, Heather. And you're right. As of an hour or so ago, I'm now solely in the role of the NomCom appointee to the Non-Contracted Parties House. So I'm no longer holding any formal position within the IPC.

I wanted to just spend a few seconds about talking about the Civility Pledge, what it is, and why we developed it. We found over the course of several years, and especially perhaps being accelerated by our inability to meet in person that within the IPC and I think within the greater community, there is a temptation perhaps to be a little more aggressive to assume not the best for people and those kinds of things, things that really make discussions heated instead of productive. And so we said about to decide what can we do about it first within the IPC, and then perhaps lead by example in the greater community of how we might address these things. And so that's how we came up with the idea of the Civility Pledge. But the pledge is not, as a rule, that's going to be enforced by one party against another. We aren't going to squeal on each other and do all these things. It is aspirational and it's pretty straightforward. So I thought I would just

quickly verbally walk through the various big aspects of the Civility Pledge, and then talk about what might be next.

So our goal is to model civil behavior and language, online as well as in public by being kind while maintaining the right to vigorously disagree, being civil. Being kind doesn't mean that everybody agrees or there's some sort of groupthink. The other thing we'll do is we'll act respectfully towards others, especially those with opposing points of view, and we'll listen carefully to those who disagree with us, as well as to those who support us. We're going to refrain from attacking adversaries through uncivil discourse, both in public and in private, and to the extent allowable under ethics rules that govern our professions, being transparent about the political and financial motives and interests behind our positions. It's an essential part of civil discourse. We are also encouraging members to conduct themselves with the highest level of honesty, transparency, and to foster constructive, civil discourse based on these principles. We are understanding and acknowledging that politely expressed disagreements about substantive issues should not be viewed as personal attacks. We are going to refrain from what may be perceived as the making of snide remarks and condescending attitudes. This is not to say that there will be no humor. Of course, there will be humor. It's ICANN. But it's going to be nice humor. And we also agree to talk directly to those with whom we disagree in the first attempt to resolve those disagreements. We're going to value honesty and goodwill while striving to solve problems. And we are going to attempt to genuinely

understand the point of view of others while we're working through ICANN's consensus building process.

So those are all things that you might expect if you had sat down and sort of drafted your own. And again, like I said, this is not a new rule, this is not something that we're going to be looking to exclude anybody over. But the IPC Membership by consensus has adopted this and it's going to continue to govern our interactions with each other and with those outside of the IPC.

In terms of what happens next with a pledge, we really welcome anybody in the community groups, individuals, to look over the pledge—I believe it's posted on our website or will be—and to ask questions and begin a dialogue with us in relationship to maybe how others may want to either adopt this or adjust it and adapt it, or at least maybe just have more questions about how we got here and what these things mean. So it's meant as an open invitation, we're not pushing anybody. We're not evangelizing it. We're just saying we're doing it and everybody's welcome to join in the fun.

So, Heather, I hope I kept the time on this. Thank you so much for allowing me to present this. It's important to me and others in the IPC. I'm really glad that it got airtime. It's such a tight schedule. Thanks.

HEATHER FORREST: Thanks, Paul. That's absolutely wonderful. You've done a tremendous job with time, in fact. And given the importance of the topic, I'm really glad we devoted the time to it. Anyone have any questions, comments,

concerns for Paul? This has been kicking around on the IPC for quite some time, in no way, shape, or form strategically lined up with ICANN72 in terms of big impact moment, Paul. It's more like big impact moment with yourself leaving the leadership team and leaving your role. Indeed the entire IPC leadership team has been working hard on trying to finalize its portfolios for what is effectively our working year, which ends on the 30th of November. So hence, the timing to the extent that anyone had a question in their minds about that. Paul, I see no questions. No hands up for you.

Sarah has made a comment in the chat. It would be great to see how the pledge works out in practice as it relates to our ongoing efforts on anti-harassment. I think it's a really good point. It won't be for you necessarily, Paul, in your new role, but our new policy coordinator, I'm happy we've got a few volunteers for that. And that's certainly on the leadership team's agenda in the coming week or so. But for that person did not abandon this project that we come back to it and we do a bit of an evaluation at some point. Perhaps that one is timely around the next public meeting when we can be accountable and transparent to the community to say, "Here's how we found it and this is gone." And likewise, I think, Sarah, to your comment, let's solicit the input and the feedback from others in the community as to hold us accountable to the pledge. If we're the ones that have signed up to it, as Paul says, we're not forcing anyone else to sign up to it, although door knocking campaign has come to mind, Paul. But yeah, by all means, judge us against the standard that we've chosen to hold ourselves to. So in that collaborative spirit, we'll move forward.

Excellent. All right. Let's move then to the second substantive item on our agenda. You'll see that we have two sort of meaty, substantive topics to which we've allocated the bulk of our time. The first one is RPM Phase 2, otherwise known as the Review of the UDRP. This has been an ongoing discussion within the GNSO Council, which is rightfully so, given the GNSO Council is the manager of the policy development process per the ICANN Bylaws Article 11. So it is therefore well within the GNSO Council sole remit to deal with scoping of a PDP.

The PDP was chartered some years ago and it broke into phases, as is the want of PDPs these days. And given the passage of time, let's say, on the learnings from Phase 1, which was the Rights Protections Mechanisms that were introduced in the 2012 new gTLD round. There's a good motivation, let's say, behind opening that charter afresh and looking at it through current time's eyes.

So with that introduction, I'd like to turn it over to John McElwaine and Susan Payne. John is a GNSO councilor, recently reelected to serve another two-year term. Congratulations to John. And Susan serves as our IPC secretary. She's been sitting in—for those of you who attended Council today—as Flip Petillion's temporary alternate this meeting, as Flip is absent, but will be continuing in the role of IPC secretary when the leadership terms change over on the 1st of December. So with that, I turn it over to John and Susan. Thanks very much.

SUSAN PAYNE: Thanks very much, Heather. I think I'll start. I was just going to introduce a bit of background and what is happening with this proposed policy status report. Brenda, I wonder if you could change the slides over for us, that would be super, and we can go over to the next one. Thank you.

Apologies for anyone who has been following this very closely, if you're a Council member, for example. But I think when we get on to the IPC's concerns, I hope you'll still find it useful and informative. Just as by way of background, as Heather mentioned, the charter for the RPMs PDP is quite a long standing one. It was adopted back in 2016. And Phase 1 of the RPMs PDP was a long piece of work that finally concluded at the tail end of last year, and the Phase 1 final report was approved by Council and sent to the Board in February 2021, although, sadly, has not yet been approved by the Board or moved to implementation. The charter always anticipated that as Phase 2, the UDRP would be reviewed. But as a result of a lot of feedback, both during the Phase 1 work and then subsequently when we completed a post completion questionnaire, I think it's widely accepted that the charter for the UDRP needs to be more tightly scoped in order to set the work up for success.

There were big problems with Phase 1 in terms of the charter having effectively incorporated a sort of wish list of the communities asks that were really kind of quite unfiltered. Sometimes they were duplicative. Sometimes they were quite assumptive of outcomes. Certainly non-neutral and we spent a lot of time trying to revise the charter questions to make them more targeted. And we also spent an

enormous amount of time seeking data, trying to do surveys and the like, all of which to try to actually produce a sort of data led review of the Rights Protections Mechanisms and not entirely successfully.

But consequently, I think very rightly when thinking about kicking off the work on the UDRP, I think it was something that Council leadership instigated. Philippe and colleagues proposed that perhaps the first step should be to have a policy status report. Because in relation to the UDRP, it hadn't been reviewed, rather, the issue report on the UDRP that was originally produced was back in 2011. And obviously, we're 10 years on from that now. So that was the notion. And the idea was that the purpose of that policy status report would be to ensure that the rechartering process focuses on specific issues and topics that could benefit from a comprehensive policy review and resulting in a clearly scoped and precise charter and looked at or proposed that that be done by doing three particular tasks that I've flagged on the slide. But essentially, gathering of information, sort of identifying major issues that had been reported in respect of the UDRP, gathering data, and highlighting any sort of changes or trends that have been observed since that issue report was originally produced.

At Council September meeting, the staff presented an initial proposed framework for how they would go about doing this policy status review. And the IPC and others raised some questions and concerns about how that was presently envisaged. So during the October meeting—and it says on the slide, which was actually just shortly before this meeting here today—staff came back and presented

something of an update where they did refer to some of the feedback that had been given and we had a further discussion. But what we wanted to really do was flag some of the key concerns or key issues that the IPC once had with the proposed structure and the work that was being envisaged, and where there's some updates on that, we've also tried to highlight that. So if we could go on to the next slide, I think I'm going to hand over at this point to John, if that's all right, John.

JOHN MCELWAINE: Susan, thanks. So the next slides were put together, admittedly, by Susan. So thank you for pulling it together. But they're based off of an e-mail that I sent to the Council list, where I had taken a lot of input from many people on this call to make proposed revisions to, essentially, a PowerPoint document which is the framework for GDD to begin its preparation of a new policy status report.

So one of the first comments that we made and I think the most important one is that we felt that the issues discussed in that framework were focusing a bit more on some of the negative aspects which came as a surprise to us. So when you looked at the initial issues report and all the documentations from that 2011 report in webinar, there's a lot of positives that were talked about with respect to the UDRP. Anything that was falling into really a category of negative type comments were really just contained in an Appendix. So it was just a minority had mentioned buzzwords like forum shopping and other type issues. So we wanted to make that point. And we were

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pleased to see in the revised framework that a lot of that was taken out and, really, what you'll see throughout is that the document is shorter and it is more just GDD saying we're going to take a look at the facts that we can put our hands on. So I think we can go ahead and go to the next—or, Susan, if I missed anything, you just hop in too. But go ahead to the next slide.

Datasets were also talked about. The staff had put forward a list of datasets. Importantly, there's something I raised on the call today, the GNSO Council call. There is only four or five datasets and it's not exactly anything that is going to be unusual to have access to. We're all familiar with it. It's going to be things such as how much does UDRP cost by the different providers? What are certain rates in terms of awards in favor of the respondent versus the complainant? What we've been pushing for all along was really a sit down with people that are close to this issue as to what data there might be available. So that's going to be folks like the providers like WIPO, and like the arbitration forum to say, "What other data do you have that you can maybe provide to GDD? What trends do you see that perhaps with a bit more analysis, we can tease out?" Maybe talk to groups such as INTA. Find out what are their members reporting. What are they reporting in terms of costs? I think, as I raised on the call today, there's other areas of data that can be collected. And what we were told on the call was, go ahead and get the information into Council or into GDD. We'll work with Philippe of having the right the contact information. But they were definitely open to that.

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Now, what you'll see there is, although we've gotten a little bit longer timeframe, it looks like that data collection window is only five weeks starting from today. So we need to get on that. However, through comments made by Susan and by Marie today on the call as well, I believe the feeling is that the Council that this will be an iterative process. So although it'd be great to have people really put some thought, maybe even on this call, as to what other data could be provided to ICANN, we're going to have some opportunities to continue to interact on this issue. So let's go ahead and move to the next slide, please.

Lastly, again, the Business Constituency (BC) has been a great supporter here. They have echoed our concerns. Again, it was very noticeable that Marie's hard work on behalf of the BC and the RPM Phase 2 group that we put together here at the IPC that our comments went a long way to, I think, hopefully helping GDD come up with a plan, a framework, for the PSR that will really inform the Council in its charter drafting process. It doesn't really need to be said again but I will that we have to be intentional with the charter drafting process. I really would like, as I put into the chat, for the Council to take a look at the Consensus Playbook and some of its suggestions, not how to conduct a PDP but the ones early on that make some good recommendations on how to scope out and how to approach putting together a charter to address things. I think that a review is a slightly different PDP animal than perhaps creating a new policy that the community has all banded together to solve.

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So with that, Susan, I will open it up for comments or discussion. We can take a queue. And I see one is forming. So, Jeff, why don't we go over to you?

JEFF NEUMAN: Thanks, John. I've been giving this a lot of thought. Many of you may know that I became a panelist for one of the providers about a little over a year ago, and there are many other IPC members that are also panelists. In speaking with other panelists over the past year or so— and I see more than one of them on here—one of the things I really wanted was a way to answer certain questions that panelists have had over the years on a number of different things. Now, I think what's up here on the slides are great in the sense that they are kind of the meta big issues, right? The costs and all that kind of stuff, that's really the high, high level issues. But there are lots of smaller issues that panelists talk about a lot, which we don't have definitive answers for but which we would love to see work done. There are certain views that are held by people and some of those are enshrined in like the WIPO consensus overview, but that's not like a legal code or anything, it's just a consensus overview. It'd be great if certain questions could be resolved once and for all. I'm trying to talk at a high level but I don't want to bring all the issues in because it really gets us into the weeds, but things like what is the actual role of precedent? What really does guide the panelists when they're deciding a case? Can we once and for all define what it is to have a registration? Things like that that you still get these outlier decisions every once in a while which are not in line with the "consensus". And questions like those, other panelists, we'd

look at it and go, "We kind of wish that the consensus was enshrined somewhere or that there was some rule that told us we had to follow the consensus." There's lots of—I'll call them little issues but they're not really. I think that there needs to be some sort of mechanism to address those. So while I think it's great to focus on the meta issues like these, I also think that the panelists should be talked to, and to see what are the issues that they see that could improve the process or help them to answer a lot of these questions.

So that was my input. I have a paper that I've started and I'll probably submit it at some point, but that's just some of the thoughts that I have. Thanks.

JOHN MCELWAINE: Thanks, Jeff. Anybody else have any comments about the framework for the PSR? Lori, I see you have your hand up. Over to you.

LORI SCHULMAN: Hello, John. Thank you. I want to thank you to Susan and Marie—I don't think she's on the call right now—for representing us on Council on this very, very important issue to the IPC. In terms of the framework, some points that I had put in the chat this afternoon that I think we really need to hone in on is that however the report goes that if we need data that we get the data up front, that we be concise, that we'd be factual, that we don't leave—I'm going to back track and say—and Susan and you and others who are on RPM Phase 1 are well aware—the charter was miserable. We didn't have enough data. We

didn't have concise questions. It looked like Council just took in this bucket of feedback and without filtering it, sorting it, or putting it any sort of cohesive way, and that for something like the UDRP which we generally agree is working well and has been working well for the last 20 years, that we be careful about how we frame the questions. Because we do know that there are areas for improvement. Nobody's arguing that the UDRP is perfect. The handbook that Jeff referred to in terms of WIPOs, it's not law but it is precedent in the sense that this helps drive good decision-making, good panelist discussions, and consistency inside of the framework itself. So I do think that examples that are put forth by—particularly the WIPO reports are not as familiar with the reports from the other providers are taken into consideration and given weight because they come from very practical points of view and practical outcomes. That's one point.

I also want to highlight—I see that Renee is here and Brian's here—and I do think it's important that when asking how INTA can help is to see where INTA could supplement information that isn't already available. I would hate for us to try to reinvent the wheel or take on data that is already available from another source. As many are aware, INTA worked closely with ICANN about six years ago to get cost data and some other data regarding the implementation of the new gTLD program. There were admitted pitfalls to how this data was collected. The survey itself was quite complicated. There were rules around having to complete all of it, not part of it that created uneven results. And so what we were hoping would be very strong data driven report was in fact ended up being more anecdotal. That's something we do

want to avoid this time around. So INTA is happy to survey its members and just happy to provide information, but we would need more precise instruction on what is needed.

JOHN MCELWAINE: Thanks, Lori. Brian, over to you.

BRIAN BECKHAM: Hi, John. Thanks. I wanted to dovetail on what Lori just said. I recall something Susan said and I think this was—at least it seemed kind of in the air to me when I saw the initial presentation from staff on the PSR, maybe a little less in the one that was presented today. But it feels there's a lot of focus on identifying issues with UDRP. As Lori said, it's not to say that the UDRP or anything can't be improved. But I do think it's worth kind of zooming out in recalling that this is a policy that's worked very well for the past 20 years. We've just passed 55,000 cases at WIPO. We've been extraordinarily busy over the past year and a half with COVID. As I'm sure will come as no surprise to everyone here, there has been a lot of fraud and targeting of brands online, given that we're all here we are doing a virtual conference, people are working from home, going to school from home, shopping online more nowadays than ever. So we've seen an absolute flood of cases. In fact, this week we will pass the number of cases that we had last year, which was a record on the year before. We are likely to pass 5000 cases this year. Just a few short years ago, we hit 3000 cases per year milestone, which was a pretty noteworthy event for us. So it's not only

it's alive and well but it's being used day in and day out by brand owners around the world.

I would also just reflect on the fact that it does bring a degree of trust. We hear a lot of talk around these ICANN meetings about security, stability, trust, interoperability, the global Internet, etc. And I think it's often taken for granted the role that UDRP plays. It's a small role. It's a small piece of a big puzzle. But it does play a role towards shoring up trust in the Internet that's important for brands and it's important for consumers. It's important for the domain aftermarket. There was an article published a year or so ago which even suggested that the predictability that comes from the UDRP and in particular from the WIPO overview—and I'd be happy to talk with Jeff and others offline about some of the ins and outs of that and how that's deployed in practice by panelists—but the suggestion was made that even the predictability from the UDRP helped to create the robust domain aftermarket that we have today.

Also to bear in mind that it very much acts as a safe harbor for contracted parties. During the ccNSO session earlier today, a link was shared to Registrar Stakeholder Group document which outlined approaches to BEC scams and other types of fraud. One of the things that jumped out—and I appreciate, I may tend to look at this through a slightly more narrow lens than others—but one of the things that jumped out to me was a reference to for certain types of cases, these are disputes that should be referred to a UDRP provider. These aren't the types of cases that registrars should be dealing with.

Sometimes it's been in terms of the policy review, the kind of analogy has been drawn to making changes to the UDRP—and I've been involved with it for a long time myself, I'm sure we can all come up with our own list of things from the small to the big that we think might improve it. But the analogy has been drawn to changing the oil in your car while you're driving down the expressway. I'm at the risk of sounding like a broken record and speaking to an audience who would share this view, I think it's worth bearing in mind the positive attributes of the UDRP and not whatever the focus of this PSR or the chartering effort or the PDP whenever this kicks off to simply identify "issues" that need to be addressed and not lose sight of all the positive attributes and, frankly, not mess those up for the future of the UDRP and all of the people that rely on it around the DNS ecosystem.

So just as one practical observation, this PSR idea, it's relatively new to me. I had the sort of unique dual roles in the RPM Phase 1 of being for the first half a working group member and then the second half in leadership. And one of the things that I was, I think, reasonably vocal about during the first part of that was there was a notion that we needed more data, particularly on the Trademark Clearinghouse, on claims notices, on Sunrise practices and policies, etc. It was pretty clear, even before we sat down that path, that we had a lot of data already and whatever we were going to ask from the community was likely to produce more anecdotes than new data that we didn't already have. And I think that very much is how it played out. So I know people have said that we've spent a year during the RPM Phase 1 gathering data or discussing data, effectively spending time that

didn't need to really be spent because we already had the information in front of us.

So reach out to the providers. I know that that's already something that's going to be done, whether it's on the PSR, the rechartering, the IPC, and INTA level has been mentioned. But just to sort of come back to this idea of focusing on the positive attributes and being very careful with changes, we have 20 years of jurisprudence, enshrined in the WIPO overview would be that—and again, this notion of the PSR is new to me so I don't know quite what all of the procedural rules of the road for it, but it strikes me as something that could be the first of several steps along the path towards refining the charter, which I think is a shared understanding of something that needs to be done. So to not settle on the idea that this PSR is going to then launch us into the rechartering effort, we might look at whatever data is gathered and public comments come in from the PSR and say, "Okay, that's great. We have this information in front of us. Now, let's refine that a little bit further." So to kind of go really intentionally into this process in terms of what's been identified as areas where there might be some good room for discussion around reasonable potential for consensus on making changes to this policy and to really be mindful of the potential repercussions of just sort of taking more ripping off a band aid type approach and what that might do to the 20 years of jurisprudence for all of the different stakeholders that rely on the UDRP. Thanks.

JOHN MCELWAINE: Thank you, Brian. I'm so sorry, but we've gone about five minutes over. If you've got a comment or question, put it into the chat on this or put it out to the list. If you don't mind, I think I should turn things back over to Heather so we can stay on course with our topics.

HEATHER FORREST: Thanks, John. I'm so sorry to do that. Please do drop off your comment to the chat so that the folks here can see at the meeting, and we'll follow up on it. Brenda, if I could trouble you to take us back to our main agenda, please. That would be wonderful. I'm sorry. Real estate in an ICANN meeting is incredibly scarce. It's like trying to get a [inaudible] view of Sydney Harbor. So we have an hour and we need to push on as best we can. With that, no more griping for me.

The next topic that we have is concerned about delays in implementation. We've intentionally worded this fairly broadly. Judging from the participants list here today, you're of course not at all unfamiliar with the topic. It's been a sort of buzzword in the course of this week's discussion or prioritization perhaps has been the buzzword. I'm not sure if it's prioritization or implementation, the one seems to be a precursor to the other. I think generally speaking, if I can articulate very broadly, it was certainly a feature of the CSG, the Commercial Stakeholder Group constituency, which is the IPC, the Business Constituency, and the ISPs. It was our chosen topic to go to the Board with this week what we want to talk to you most with them. I think there we focused mainly on reviews, picking up the theme of the discussion that had happened, started in Prep Week with the

announcements or sessions on where we are with regards to reviews, and carried on there with the Board between our three constituencies. I think the IPC is concerned more broadly with both PDP and review team recommendations. To the extent that, let's say, others agree with us that this is indeed concerning, this delay in the implementation, we'd really like to have a frank exchange of ideas here because I think we're all thrashing about trying to figure out what to do. Complaining at the public forum is one option but complain to whom and to what end? And what's the end game, let's say?

So with that, I'm very keen to kick off a discussion on this topic. Lori, Brian, I suspect your hands are old hands, but I won't assume. So I'll just check with you before moving on. Wonderful. Okay. All right. All three of them hold hands. I'll open the floor then. Does anyone share our concerns? Any IPC members want to expand upon the very high level remarks that I've made here? What do we do about this? Are there particular instances of delay that that bother us more than others? Is it a macro kind of concern? Where to from here? Susan, over to you.

SUSAN PAYNE: Thanks. I'll kick this off. I'm sure others will wait. It almost circles back to the topic we were just talking about in the UDRP review. It's something that I did raise in the Council call just earlier. We're talking about moving on to Phase 2 of the RPMs review and reviewing the UDRP. And yet, Phase 1 hasn't been adopted by the Board yet. As far as we can see, on the face of it anyway, it hasn't been considered by

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the Board, and that's despite it having gone to the Board in February. So it hasn't gone into implementation yet because it's not been approved by the Board. And yet, we still have at the top end of the funnel, if you like, the GNSO Council or the GNSO quite rightly, thinking about moving on to another phase of the work. And it really troubles me on multiple levels.

But on a very personal level, I feel incredibly aggrieved that I spent hundreds of hours of time on the Phase 1 RPMs. There were some weeks when a small handful of us who've volunteered to help with scoping a data survey exercise. We were doing up to 10 hours of calls in a week over a very short period on the basis that it was urgent and we must get the work finished and wrapped up and we couldn't possibly allow it to spread out over a bit of a longer period because we were all on a deadline. And yet once it goes through Council, we're not on a deadline anymore, and it's incredibly disincentivizing. And I must say frankly, if the UDRP were to kick off tomorrow, I don't think I'd be participating because I feel like I wasted my time. And so I think it's a message I certainly would want to make I think both to Council and to the Board members who are here, which is we keep talking about burnout but there's a big factor in the burnout is feeling like the work that you've spent hours on is deprioritized once it leaves Council. Thanks.

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HEATHER FORREST:	Thanks, Susan. I'll note, as you've been speaking, Mary Wong from staff has put a response in the chat. So I'll direct your attention to that and turn it to Griffin.
GRIFFIN BARNETT:	Thanks, Heather. Hi, everyone. I fully support and endorse and share the comments just made by Susan. And I would actually point out another particular case in addition to the RPM case that Susan discussed where I share that particular pain and that relates to PPSAI, which is another one where there were years of policy development work in which I was involved. And then, frankly, additional years of an Implementation Review Team that was well under way and, in fact, pretty close to the finish line in many respects. Then obviously, GDPR implementation went into effect in 2018, Temp Spec was passed, and all the EPDP related policy development was initiated. And that particular IRT was kind of unilaterally paused by the Org at that point due to perceived interdependencies with the EPDP work.
	We've been told repeatedly in the last, I don't know, a year, year and a half, maybe longer, that the interdependencies had been resolved primarily through EPDP Phase 1 and that it was appropriate to restart that Implementation Review Team. Up to this point, that hasn't happened. There was a glimmer, I believe, maybe several months ago, maybe earlier in the year, where it seemed that the stage was kind of set for that IRT to kick back off. I think, in fact, it was even e-mail sent out to former IRT members. I received an e-mail from I think ICANN staff to confirm that you're so interested in participating in the IRT as a

member of the original IRT. Basically, since then, it's been radio silence and it's kind of returned to the sort of the black hole where it's kind of been living for the past number of years. So that's another one where I guess I would, again, kind of echo the frustration that Susan expressed.

I know that the PPSAI is sort of a slightly different case, given the issues and interrelation with other WHOIS policy work. But I think, again, we have a clear mandate from the community to restart that work. And again, we're still kind of in a state where we don't know when that's going to resume. Thanks.

HEATHER FORREST: Thanks, Griffin. I could help the queue follow up behind you. Fab, over to you.

FABRICIO VAYRA: Thanks, Heather. Can you all hear me?

HEATHER FORREST: We can, Fab. Go ahead.

FABRICIO VAYRA: Awesome. I'll even throw on a video so that you guys know I'm alive. I just wanted to echo what Susan said and onto what Griffin was saying. But this concept of when certain parts of the community want to cover something quickly and move on, we get this concept of exhaustion.

But yeah, I think to Susan's point, I think the communities who's exhausted, using PPSAI as an example, I remember having the initial discussions about a concept for that group before my daughter was born. I then went on to serve on the Expert Working Group for WHOIS RDS Working Group. My daughter just turned eight. I left for the Expert Working Group on WHOIS when she was 12 days old. Okay. She just turned eight. We haven't implemented that. We haven't implemented PPSAI, I mean, it's crazy.

So to your point, one, there are huge delays in implementing things that shouldn't be delayed anymore, right? If certain parts of the community don't want something to happen, we just get shelved, and ICANN basically just allows it to perpetuate. It doesn't push things forward. And it's a huge disincentive because who does want to stand up at public comment or otherwise or say anything or be part of any group if this is what happens? Think about that statement. Over eight years of commitment to WHOIS and nothing—quite literally, nothing that we worked on was implemented. Yet, EPDP railroad through and shelve all of these things and we're still getting nothing. So yeah, I think we've got a really, really big problem here, and I think ICANN sort of needs the wake up because it can't be bottom-up without people on the bottom pushing up. If people are that exhausted about pushing up and seeing nothing happen, we've got a real problem here with where ICANN is going. Thank you.

HEATHER FORREST: Thanks, Fab. Cheap shot to you in the chat there by Brian King. Over to Brian.

BRIAN KING: Sorry, Fab. I'll be quick too. My comment is also on PPSAI, source of frustration for some of us, including those who were on the EPDP with respect to PPSAI is that it seems like the Board is fine to slice and dice review team recommendations, and implements some, and defer others, and park others or reject others. But there was plenty of PPSAI that could have been done like the concept of accrediting privacy proxy providers. It had nothing to do with EPDP and could have been done and that work could have gone on during the EPDP, in fact, because it didn't cost us more time and effort in the EPDP to determine whether data privacy proxy providers should be always published. So that was something that we had to resolve again with the EPDP, which I know resulted in a lot of frustration and burnout. So I'll keep my comment brief there. But things like that are frustrating, too. Thanks.

HEATHER FORREST: Thanks, Brian. Good to have another example. Alex and Jeff. And that's probably going to get us to time, but we'll see how we go.

ALEX DEACON: Thanks, Heather. Hi. I want to raise once again the issue of the Phase 1 EPDP IRT. Remember that we have policy for Phase 1, EPDP Phase 2, and now for Phase 2A, but we're nowhere near close to completing the

Phase 1 IRT. This policy work, the Phase 1 policy work, if you remember, it took six months to complete, roughly, and we're now two and a half years into an implementation with really nothing to show for it, and no end in sight. Major pieces of that policy, the data processing agreements are currently being negotiated outside of the multistakeholder process. And it's a black box. We have no idea when those will show up or even if. So, this should be a major concern for everyone. It's my personal opinion that this shows that there's a major issue in the ICANN multistakeholder process. However, from what I could tell, no one seems to care. Thanks.

HEATHER FORREST: Thanks, Alex. Jeff promises a forward looking comment. Jeff?

JEFF NEUMAN: I hope so. Yeah. Sorry, I can't give you any help on the privacy proxy or any of that stuff. And I agree with the comments that are made. What I can try is ask a question about something in the future which is the SubPro ODP. I have just been named the ODP liaison to the GNSO. And while my role is extremely limited, if you've read the description, one thing I asked the GNSO—and I'll ask all the constituencies and stakeholder groups—is to look at the information that you're getting from Janis, who's the ODP liaison for SSAD, and let me know or let the GNSO Council know, actually, whether you're happy with that amount of information you're getting, whether you think the GNSO should be getting more information more frequently. If there are things that you didn't like about or still don't like about the ODP for SSAD, sharing

those views with the Council, because that's where as the liaison I would take my instructions, may help. And if there is anything that I can do to help with at least the transparency on this one ODP and the GNSO Council thinks that that's a good idea, then I'm happy to do that. So it's sort of forward looking and asking you to, because the ODP is still an experiment, this is only the second one, is to think about it. Think about the current experience with the ODP and the SSAD and what could be done better. Thanks.

HEATHER FORREST: Thanks, Jeff. In fact, I put that in the category of possible solution, but certainly next steps. I mean, what can we do about it? Certainly for those of you not part of the IPC who are joining us today as an open meeting, you get the sense and that's a pretty broad spectrum of interests across the Intellectual Property Constituency. You might think we're a fairly homogenous community but that's certainly not the case. Some of us focus much more particularly spend our day to day on content-related issues, which in the law would fall under copyright, and some of us spend our time mainly on branding and trademark issues. And although these things all get kind of bundled up under the rubric of intellectual property, in fact, the sort of streamlining of modern work practice means that often IP and copyright practitioners don't sit alongside each other in the law firm anymore or in a media organization. So yeah, it seems we come together on this point on these concerns. But I'm sorry, we haven't had a chance to or nobody's felt keen to kind of pitch in their own position on the discussion we've had today or maybe we interpret

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from that, I'm not sure that you don't agree that you think we're adjusting windmills. This is just the IPC ranting at the wind again. I hope that's not the case. I think there's been some pretty reasonable arguments made here about concerns expressed about starting a new work effort when the previous work effort that dates back five, six, seven, eight, nine years hasn't been implemented. We can all come up with reasons for why implementation hasn't happened, whether it's legislative developments, whether it's volunteer burnout. There's all kinds of things to put in that explanatory bucket. But at the end of the day, the trend is alarming. Whatever you think about the substance, you all know me well enough to know that I'm a stickler for process began—three and a half hours of sleep is starting to show through—I believe in predictability and the benefits of following process, not being bound by process, not being hamstrung by process. But there needs to be some assurance, to pick up Susan Payne's original point, that what goes in goes out, and I think we're all familiar with the notion of garbage in, garbage out, which is maybe where we're getting to if there's this much bitterness and acrimony. At the end of a pretty wide funnel, we're at the sort of thin end of a pipeline, and about to jam that pipeline full of brand new stuff within the GNSO Council. And perhaps before we do that, we need to consider, do we take a stand here? Is this something that if those above us in the food chain can't do some [handle] won't do something about, do we take a stand as community members? With that, Philippe, GNSO Council chair, you just put your hand up. We'll give you the last word. Please bear in mind we've got a hard stop. So over to you.

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PHILIPPE FOUQUART: I do want to have that last word. I'm sorry about that. I just wanted to pick up on just what you said and what Jeff said. Last year, Council spent about one-third of our time on things that are post PDPs, still growing. That will be on our agenda for the SPS. If there's anything that Council should do in terms of how we work with the Board, how we work with the ODPs, whether that's SubPro or the SSAD, please brief your councilors for the SPS. Because I think that's certainly something where we can improve in terms of making sure that what we deliver actually ended up being implemented. So do get involved and Council is certainly willing to engage and even more than the one-third I was referring to for this year. Thank you, Heather.

HEATHER FORREST: Thanks, Philippe. I appreciate that. And given this is my last IPC public meeting in the role of president, we know that leadership roles can be reckless on the way on the door, I'll say, it's time to get bold. We've been complaining that the same complaints have been articulated for years and years and years and decades now. I think it's time to get bold and time to go to that—if we're going to take that Strategic Planning Session seriously, then let's go forward in that spirit and take what Philippe has said seriously and not just bring platitudes to the table.

So with that, Fabricio, I consider that an old hand. You're still smarting from your billable hours. Pot shot in the chat so you refuse to put down your hand. Thank you very much to everyone for joining us. It's

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lovely to see so many people here. We're very sorry, of course, that we can't all just retire to the bar at the end of the session. It looks a little bit odd, 11:31 here in Tasmania. But never mind, I'm sure it's a nice time of day in Seattle. Stay safe, healthy, happy end of year to everyone, all the very best to you in the months to come. Hopefully we'll get to see each other soon.

Thanks very much, Brenda, and our backend staff for helping us put this meeting together. With that, I'm happy to declare the meeting closed for now and look forward to seeing you all again soon. Thanks very much.

DAMON ASHCRAFT: Thank you, Heather.

BRENDA BREWER: Thanks, everyone.

BRIAN KING: Thanks, Heather. Bye, everyone.

[END OF TRANSCRIPTION]