ICANN Transcription
Review of All Rights Protection Mechanisms in all gTLDs PDP WG
Wednesday, 21 December 2016 at 2200 UTC

Note: The following is the output of transcribing from an audio recording of Review of All Rights Protection Mechanisms in all gTLDs PDP WG call on the Wednesday, 21 December 2016 at 22:00 UTC. Although the transcription is largely accurate, in some cases it is incomplete or inaccurate due to inaudible passages or transcription errors. It is posted as an aid to understanding the proceedings at the meeting, but should not be treated as an authoritative record. Attendance may be found at:
mailto:https://community.icann.org/x/BJ3DAw

The audio is also available at:

mailto:http://audio.icann.org/gnso/gnso-rpm-review-21dec16-en.mp3

Coordinator: The recordings have been started.

Michelle DeSmyter: Great. Thanks so much, May. Well good morning, good afternoon and good evening to all. Welcome to the Review of All Rights Protection Mechanisms in all gTLDs PDP Working Group call on the 21st of December, 2016 at 2200 UTC.

In the interest of time today there will be no roll call as we have quite a few participants online, attendance will be taken via the Adobe Connect room. If you're only on the audio bridge today please let yourself be known now.

Beth Allegretti: Hi. It's Beth Allegretti. I'm on audio only.

Michelle DeSmyter: All right, thanks, Beth. We'll note that. And also as a reminder to all participants, please state your name before speaking for transcription

purposes and to please keep your phones and microphones on mute when not speaking to avoid any background noise. With this I'll turn the call back over to Phil Corwin.

Phil Corwin: Well hello to everyone. Happy holidays. Thank you for joining in this week leading up to Christmas and Hanukkah and other holidays. I'm not going to try to list them all. I know there's many at this time of year. And happy winter. Today is the winter solstice.

We are going to aim to wrap up our work of reviewing these Trademark Clearinghouse questions today. And as we do so I'd ask everyone to remember that we don't have to be 102% precise in framing these questions. These are questions where we've gotten questions from the community, we're trying to consolidate and rationalize them; the people answering these questions will be us, they're not going out to third parties so we don't have to be quite as precise because if there's any questions about what they mean we can hash that out as we get into them.

So we're hoping that – the co-chairs had a call yesterday and it's our strong hope, we just have five questions left that we can wrap up them today and actually starting in our first call in January start to get into the substance of addressing the questions rather than framing them. So with that as a preview, can we get that document up in the – up on display? It was there briefly and disappeared.

Okay, I'll tell you, we really need it displayed where we can have scroll control and where all the boxes can be read where they're not cut off.

Mary Wong: Phil, this is Mary.

Phil Corwin: Yes.

Mary Wong: So – I've just noticed that this document, which actually is the latest version, is displaying as a clean version without the redline so we are going to work on trying to get the redline version put up. But in the interest of time would you like to work off this clean version instead?

Phil Corwin: Yes, Mary. I think that's good. Hold on a second, just let me – let me orient myself here. Okay, all right so we are – when we ended the last call we were dealing with Question 3.2, which is on Page 4 of the document. And that is the one which currently reads, "Should the scope of the RPMs associated with the Trademark Clearinghouse be limited to apply only to the TLDs that are related to the categories of goods and services in which the dictionary terms under trademark are protected."

In the co-chairs' call yesterday, we agreed, all of us and I note Kathy Kleiman is on the call, J. Scott Evans had to send regrets, he's on a plane right now. We agreed that this (unintelligible) – let's just leave it where it is right now and come back to it when we discuss questions related to the sunrise registrations and claims period because really the questions we're dealing with now for Trademark Clearinghouse are basically – go to are the criteria for registration the correct ones and are they being administered properly? Are they being enforced and not being administered in a way that's either too narrow or too broad?

And this really goes more to the effect of the registration for the associated RPMs. So the co-chairs agree that this question should be deferred for now and moved to sunrise and claims. And so that brings us down to the next question which is, "Should the Trademark+50 be retained as-is, amended or removed?" And that's really just a question to guide our discussion of the Trademark+50 which was an implementation detail and we'll be reviewing how often it's been used when we get to it.

So in the chairs' opinion, this question is sufficient to guide our discussion for when we get into the substance. But does anyone think we need to add or

detract anything from this question to guide our discussion of Trademark+50 when we get into substance? Seeing no hands raised and hearing no one, we're going to accept that question as-is and that's fantastic progress, thank you.

Next question, "Should the Trademark Clearinghouse matching rules be retained, modified or expanded to include plurals, marks contained or marks plus keyword and/or common typos of a mark?"

Right now the Trademark+50 is limited to registrations of terms that are confusingly similar to the trademark but not an exact match had it been recovered by the rights holder either in a UDRP action or in a trademark litigation. And this is basically this question goes to whether rights holders should be restricted to registering just exact matches of their marks other than Trademark+50 or have some leeway to register variations of their mark.

So again, the question for our group is, is this question sufficiently clear to guide our discussion when we get to that topic? And I see Mary, yes, Mary, feel free to put up the redline although I think the questions we're dealing with now won't have any redline marks because we haven't dealt with them yet, but everyone please bear with us as we put in the redline version of the document which reflects the changes we've made so far in discussion.

And can we unlock the scroll so we can get back to where we were? Okay. Okay, let me just – okay so on that Question 3.4 about opening up and making more flexibility on what can be registered, anyone think that the question needs to be improved in any way to guide our discussion? If not, we can move on to the next category. All right, we're going to accept Question 3.4 as stated and move on to Access and Accessibility.

First question is Question 4.1, "How accessible is the Trademark Clearinghouse database and RPM rights protection actions and defenses to

individuals, organizations, trademark owners and trademark agents in developing countries?"

Let me start the discussion on this one, I'm not sure that accessible the right word. I usually think of accessibility in making physical spaces or media useful for those with handicaps – with limitations of some type, visual, audio, whatever. So let the start the discussion. Is accessible the right word there? Do we understand what's meant by this question? Anyone want to chime in here? And George Kirikos says, "Accessible equals affordable." It might mean that, George, I'm not sure there's a cost to access this or whether the database can be accessed. I think it's more on whether it's available in other languages, it's well known.

Kathy, I see your hand up.

Kathy Kleiman: Sorry, coming off mute. This is Kathy Kleiman. Anybody from the subgroup please jump in. Actually I think, you know, it's interesting I think the way it parses because I think there is this discussion of accessibility not just affordability but can people reach the Trademark Clearinghouse database as well as the rights protections.

Actually we should probably copy this question, not replace it, not move it completely, but keep it here as well as copy it into the trademark claims and the sunrise period. But I just wanted to let everybody know that the parsing of developing countries was really tied just to that last clause. So individuals, organizations, trademark owners, is kind of its own set, you know, does everybody – can everybody reach into the Trademark Clearinghouse database and understand what's happening?

And then it was trademark agents in developing countries that was its own clause. Someone had raised that there was an issue with trademark agents…

((Crosstalk))

Phil Corwin: So, Kathy, really there should be a semicolon after "trademark owners,"
                 separate out…

Kathy Kleiman: Yes.

Phil Corwin: …that last clause.

Kathy Kleiman: Good idea.

Phil Corwin: If staff can note that? You know, I think, again, for our own use, if we view
                 accessibility broadly as ability to know it's there and to utilize it, it may be fine
                 for our own internal purposes of guiding our own discussion, but I'm happy to
                 take other comments on this. And Paul Tattersfield suggests we change
                 trademark owners to rights holders. I'm fine with that, that's the term we
                 usually use in regard to those who have registered trademarks.

                 And Kristina Dorrain said, "Accessible is defined as capable of being used,
                 (unintelligible) seen, understood, appreciated." So, yes, I agree if that's the
                 definition I think that's – covers all the bases. And Susan Payne agrees with
                 changing it to rights holders.

                 So I think if we just put in that semicolon after "trademark owners" and
                 change "trademark owners" to "rights holders" we've got a question that's
                 perfectly fine for our own internal use for guiding our own discussion of this
                 point. Is that acceptable or anybody else want to suggest some change or
                 addition to it? Petter. Oh, I saw Petter's hand up but it disappeared. I guess
                 he was agreeing.

                 So well let's put that question to rest and move onto 4.2. "What concerns are
                 being raised about the Trademark Clearinghouse being closed? What are the
                 reasons for having/keeping the trademark database private? And should the
                 trademark database remain closed or become open?"

Let me start the discussion. I think the word "closed" is perhaps the better word would be "confidential" but it's – the full database of what's been registered in there is not available to the public. So although there is some reason to think that some people have reversed engineered in some ways but submitting what purported to be initial registrations to see if it would generate a claims notice that was just one to find out if a term is in there. But it's not generally available.

Are people okay with the word "closed" or should we change it to "confidential" or some other term? And is there anything else people want to suggest on this question? This group is awfully quiet today. I think everybody's anxious to finish the call and get back to their holiday shopping.

Petter in the – we've got some support for "confidential" rather than "closed." So I don't think it's a big deal but let's change "closed" to "confidential." The understanding is the same that it's not – you can't just go and find out what marks have been put in the TMCH.

So well changing "closed" to "confidential" anybody else have any suggestions for altering this question in any way or supplementing it? Okay, well then we'll shut down that one and with the – we'll changed "closed" to "confidential" and otherwise keep it as-is and – and we have just two more questions to go at 17 after the hour.

Costs and other fundamental Trademark Clearinghouse features. Question 1, "Should the Clearinghouse remain a single provider or should we open it to different providers of course with a central database that should be accessed by the different providers? Is it practical to have more than one provider?"

Let me start off our discussion here, when the co-chairs went through these remaining questions yesterday, we – our general thinking was that this might be a question better addressed by the Subsequent Procedures Working

Group than by our own. What we're looking at here is the criteria for – that define what marks can be registered in the Clearinghouse, whether they're being ministered properly and the efficacy of the RPMs that flow from those registrations.

This seems to be a question that's more in the Subsequent Procedures bailiwick, of changing – it wouldn't change the criteria if there was more than one Trademark Clearinghouse provider, that's really more of a question of whether it's necessary to have a single provider, whether it's practical to have more than one and whether competition would be beneficial.

But I see several hands up. So let's hear from folks whether they think this is in our jurisdiction or in the other working group's jurisdiction as well as whether the question if we keep it, is worded properly.

Kristine Dorrain, please go ahead.

Kristine Dorrain: Thanks. Kristine from Amazon Registry. My thought goes to sort of the fundamental question that I keep asking of every single charter question and everything else is, what's the problem that we're trying to solve, right? So for me I'm thinking we're trying to come up with these charter questions and as you just pointed out, Phil, they're going to the idea that, you know, how do we get to the questions? How do we figure out where the problems points are and the pain points are so we can identify solutions and figure out if the TMCH is working as intended and protecting rights the way that it was designed to do.

So I think the question really is one of is there a problem with the efficacy or value or the work of the Trademark Clearinghouse that could be possibly improved upon by investigating the idea of putting another – or putting some competition into the mix. I agree, I don't think we're going to solve that problem or recommend it and I think it definitely belongs in another group.

However, I think it's fair game for us to decide are there problems that exist that could be solved with competition? Thanks.

Phil Corwin: Okay yes, thank you for that, Kristine. And again, a lot of these questions came from the community and we're just combining and refining them. But – and I see Jeff Neuman – and Jeff's been a strong proponent of multiple providers saying competition could bring costs down and therefore make the Clearinghouse more effective. I'm not going to put Jeff on the spot and ask whether he thinks this should be in the working group that he's co-chairing because the co-chairs here plan to talk to both him and Avri on that point. But though we welcome any thoughts.

But Susan Payne, please share your thoughts.

Susan Payne: Yes, thanks. I think this question does belong in this group. The TMCH doesn't really have a role outside of the rights protection mechanisms even if we're talking about, well, actually that's not quite true. But even if we're talking about private rights that were created outside of the ICANN mandated ones, we're still talking about RPMs. So there is some other use actually for the TMCH in relation to Spec 13.

But the reason the TMCH was set up was to support the rights protection mechanisms. And I think the manner in which it was set up both within the scheduled that, but more specifically to go to Kristine's point about what is the problem, what is it that needs to be fixed, I think the feedback during the staff report procedure in particular was some of the brands owner feedback was that there were some problems around pricing and that people felt that the price of putting marks in the TMCH potentially limited its attractiveness for use and consequently usability.

Now obviously that's something as a group we're going to have to explore, but if we do explore it and we conclude that that's an issue, then it will be our task to consider how that could be addressed if we consider it needs

addressing. And one of the ways it might be addressed is by competition. So I think it very definitely falls within the remit of this group. I think as a question it almost certainly is not an early question that we'll be considering, it's one that comes sort of towards the end of our consideration probably rather than at the beginning but I definitely think it's one that fits here rather than in Subsequent Procedures.

Although, fundamentally, I mean, as long as there's an agreement about where it sits and everyone is clear in both PDPs who's dealing with it, I think it's something needs dealing with, I just think it fits better here.

Phil Corwin: Okay thank you, Susan. And Kurt.

Kurt Pritz: Yes, thanks. So I don't disagree with anything that's been said here. I think part of the problem that you might have had with it is that it does seem like an – it does seem like implementation advice rather than a charter question. In other words, it's one of the questions you get to down the track. And specifically if we're focusing on cost like the title of this category does and the discussion that happened earlier, you know, there's a lot of elements to cost.

There is the price that's charged by the Clearinghouse but it's also the scope of work that might be reduced. It's the whole value chain, including agents that are included in the cost as Caroline Chicoine brought up in earlier – in an earlier discussion.   So I think Susan's right that this discussion belongs with this group but I think the question is mis-worded because it only focuses on a narrow portion of the cost and it doesn't consider, you know, the implications of, you know, what might happen to cost if competition is introduced. It might be decreased or it might be increased.

And it doesn't focus on other major elements of the cost and that's why these other two proposals are there to re-ask the question. So I think Susan is right, it belongs in this group but not as the conclusory question we have here but

rather a broader inquiry into cost and maybe other problems with the Clearinghouse…

((Crosstalk))

Phil Corwin: Okay. Kurt, do you have any specific recommendations for changing the wording? We want to wrap up these questions today so…

Kurt Pritz: Yes, so my proposal was – my proposal was Proposal 1 with our smaller working group and then I forgot who submitted Proposal 2, but there's two proposals there that we could debate. So I'm for sort of the broader question since we're at the charter level which is Proposal 1. But I think Proposal 2 probably captures it also.

Phil Corwin: Okay, well we've got – I do think that Question 1, you know, the cost factor needs to be brought in there. So let's take a quick – okay let me hear from Kathy and then I want to get some feedback on Proposal 1 or 2 as possible substitutes for the current question. Kathy, go ahead.

Kathy Kleiman: Actually, Phil, go ahead – I was going to address the Proposal 1, Proposal 2 so it'll make – my comments will make more sense after you've reviewed them. Thanks.

Phil Corwin: Okay. Okay, and Susan, is that an old hand? But anyway, we've got two proposed substitutes here. Proposal 1, "Does the present structuring of the Clearinghouse optimize such operational considerations, cost, reliability, global reach and service diversity and consistency or should significant changes be considered?"

                 And Proposal 2 is, "What are the concerns with the Trademark Clearinghouse database being provided by a single provider and how might those concerns be addressed."

So I'd be – I think frankly Proposal 1 is a better question than the one in the left hand category. I think it's more focused on the things we want to consider. And you might even add in the first part of Proposal 2 to that, "What are the concerns of the Trademark Clearinghouse being provided by a single provider?" Question mark.

But so I prefer Proposal 1 to what's in the first column. But how about the group? I'm looking down at the chat room to see what people are saying. Griffin Barnett has proposed a variation of Proposal 1 which is taking into consideration cost, reliability, global reach, diversity of services, consistency and other possible factors. Would it be desirable and practical to have more than one provider for the Trademark Clearinghouse services? Why or why not?

I kind of like that. I'm not sure we need the second "why or why not" that's implied in any question but I kind of like that reformulation of Proposal 1. Kathy, see your hand up. Chime in please.

Kathy Kleiman: Thanks, Phil. The chat room discussion is a good one. I – people have already spoken to Proposal 1 so I wanted to speak to Proposal 2 which was the subgroup designed it to kind of reflect the way we handle the other questions which is, is there a problem? Does that problem rise to the level of something we even want to try to solve as a working group whereas Proposal 1 jumps in. And I haven't really evaluated the new one. But Proposal 1 jumps in and says, you know, start optimizing operational considerations.

And as a previous management consultant in my prior life, we could spend the rest of our life looking at optimization issues. So again I supported what the co-chairs said that we kind of move it to a different working group, but if we're going to keep it I do – I like – I've always liked Proposal 2, which creates a threshold. Is there a problem that we should be spending months of our lives together evaluating? Thanks.

Phil Corwin: Okay. I'm just trying to – okay, there's a lot of support for Proposal 2, although I think there's some elements of Proposal 1 and its variation that are useful for guiding our discussion when we get into this. Okay, how about – let me propose this. How about we do Proposal 2 reading like this: "Are there concerns about such operational considerations as cost, reliability, global reach and service diversity and consistency due to the TMCH database being provided by a single provider? And if so, how might they be addressed?"

That kind of keeps Proposal 2 as the base but throws in the various criteria of concerns that have been expressed by members of the community. I see Mary has her hand up. Go ahead, Mary.

Mary Wong: Yes, thanks, Phil and everyone. So I was just going to suggest that if there is no clear proposal that the group prefers, and noting that even though we've got over 30 participants today that's not the full set of members, what we could do is have a straw poll that we can put things into a survey. Noting of course, that it is not a formal vote but then just to have an indication and then the co-chairs can take a look at the results and come up with a proposal or a decision for the working group.

Phil Corwin: Okay. Well that would put off – do folks think we can wrap this up in the next five minutes here or do we need to go out to the broader group? And let me say, when we finish today we're going to circulate this – since our next meeting is not until January, we'll circulate the final status of all of these questions so that members of the group who are not on today's call, as well as those who are and want to take one last look over everything can review it and get back on the list if they think there's any issues with any of the questions.

So we're not completely locked in stone with what we decide today. I think we're close to a consensus. Again, the formulation I had put out there, which there's been some support in the chat room, is over on the Notes. Okay, I

guess it's Alternative Proposal 3 over on the Notes side, on the right hand side of the screen.

"Taking into consideration cost, reliability, global reach, diversity of service, consistency and other possible factors, would it be desirable and practical to have more than one provider for the TMCH services? Why or why not?"

I could live with that. Can the group live with that? Again, we're the ones who are going to be answering this question so the way it's posed doesn't restrict anybody from chiming in with any relevant point or consideration they want to once we get into the subject matter.

Let me ask, now we have a Proposal 4 on the side there which is very similar to Proposal 3. I kind of like 4 better because I think if so how they may be addressed. It doesn't presume the answer and I'm not fond of why or why not, it's just I think this is a more – a question of seeking more practical and pragmatic responses. And Mary says, "Proposal 4 is mine." Oh well that's why I liked it the best.

Anybody else want to speak to this? So let's take a straw poll on the list. If you like Proposal 4 over on the left hand side, please click the green Agree check. We'll give this 10, 15 seconds and – and by the way, if you don't click either we're going to take you as neutral on this. So we've got one, two, three, four, five, six, seven, eight, nine. All right, let's take those away.

If you don't like Proposal 4 and want some alternative, please mark the red X disagree sign. All right, no one disagrees. All right Proposal 4 is it, that's how we'll address this question of whether – which boils down to whether it should be – we should explore whether it be practical and beneficial to have more than one TMCH provider. That's the thrust of the question.

And that brings us to the final question here. And Mary counted 14 for 4 and I think – and there were none against 4 so we're going with 4 so staff will

reflect that in our final question list. We're down to the final question, the bottom of Page 7.

"Are the costs and benefits of the Trademark Clearinghouse for rights holders for ICANN," I guess it should be, "and for the community proportionate?" I guess my response would be proportionate to what? Anybody want to speak from the subgroup or anybody else on what this question is trying to get at? Kristine, please enlighten us.

Kristine Dorrain: Hi, Kristine from Amazon. Yes, it's just kind of poorly worded. We want to know if the costs and benefits of the TMCH are proportionate as between rights holders, ICANN and the community. So are all three groups experiencing roughly the same level of costs and benefits even if the absolutes on costs and benefits are not the same.

Phil Corwin: Okay. And are we talking about ICANN – let me say – we've got – when we say ICANN are we talking about ICANN corporate because the community, you know, we always want – when we say "community" we mean the ICANN community. So when we say "ICANN" we're usually talking about ICANN corporate so the Board and staff. I don't know if they have any costs and benefits.

I'd like to at least see domain registrants listed here too because they're the ones directly affected by claims notices. And also they may find that the term they wanted to register, a dictionary term is not available because someone had a sunrise, you know, got in a sunrise registration based on a TMCH registration. So I'd like to see domain registrants thrown in there after rights holders. I hope there's no objections to that.

And then maybe the way to make this question more understandable is, "Are the costs," let me read a proposed formulation. "Are the costs and benefits of the TMCH for rights holders, domain registrants, ICANN and the community

proportionate for each of those groups?" That at least identifies what the word "proportionate" is going to.

Yes, George in the chat room put, (unintelligible) stakeholders, but all those stakeholders, George, they're all part of the broad ICANN community. So all right, I'm going to open discussion on the supplemented version of the question I just proposed. Is there any support or opposition for that? And lack of speaking up will be – indicate support. Steve Levy has put a checkmark. I guess he thinks that's a – it's a good formulation.

No one else seems to want to speak to it or – and George, noting your comment, everybody in the community is both diluted and strengthened by being part of the community. It depends on the particular moment and the issue that's just the world of ICANN.

So did staff get the formulation I proposed orally or do you need that restated? David McAuley putting out registrants are part of the community. That's true, but so are rights holders, they're part of the community so we want to – I think we want to parse out the ones who are most affected by this while not – while certainly keeping it open to considering the impact on other parts of the community. Kristine, go ahead.

Kristine Dorrain: Hi, Kristine from Amazon Registry. I don't know that we're talking about people that are most affected. I think that what we're talking about are three different types of effect. So the rights holders are the people for whom the Trademark Clearinghouse was designed as a solution. So their solution was – or their problem was, gosh, there's an awful lot of infringement going on in domain name registrations so when the new gTLD program gets launched we need to find a way to effectively, you know, be able to protect marks.

Registries and registrars said, gosh, it was kind of insane to have these separate, you know, processes for setting up these sunrise periods so the Clearinghouse was designed to kind of solve the connection problem

between rights holders and the, quote unquote, community registrars and registries.

Registrants receive a benefit from the claims notice so that they realize, at least in theory, that they might be running afoul of someone else's trademark rights. So I think that if we're going to call out registrants then it doesn't make sense not to call out other parties as well. I think either registrants goes with the rest of the community or not. ICANN is its own thing. ICANN mostly just pays money.

So I think that there are three different buckets currently but the call out registrants means you now have to call out other stakeholders and parties that are also affected. It's not about impact, it's about type of affected party in my opinion. Thanks.

Phil Corwin: Okay. Point taken. And I note David McAuley had some good comments in the chat room which he suggested "fairly balanced" rather than "proportionate" which I think might be – is – that's a good approach. Let me read out a revised formulation – proposed formulation of this question.

Please listen carefully. "Are the costs and benefits of the Trademark Clearinghouse fairly balanced between rights holders, registrants, registries, registrars, other members of the ICANN community and ICANN?" Question mark. Does that satisfy everyone? It seems to incorporate everything we've heard orally and in the chat room. And David likes it except wants to use "among" rather than "between." So, yes, so let's restate it, "Are the costs and benefits of the Trademark Clearinghouse fairly balanced among rights holders, registrants, registries, registrars, other members of the ICANN community and ICANN?" Question mark. I think that covers all the bases and makes the question a lot clearer as to what it's seeking.

Susan Payne.

Susan Payne: Yes, thanks, Phil. I actually – I actually would prefer to use the term
                "proportionate" and I'm – I may be – I may be splitting hairs but I'm not sure
                that this is a question of balance, necessarily. The point about this question
                was, you know, is – it's that effectively the TMCH was brought in to try to
                address the concerns about rights holders feeling that new gTLDs were going
                to – going to cause them incredible cost.

                And as Kristine said, also to address the concerns that a number of registries
                and registrars were going to have about, you know, having to, you know, if
                they were – if they were planning to run sunrises as subsequently became
                mandated. But, you know, have been planning to run sunrises which earlier
                registries have been doing, that they would all be doing the same exercise
                over and over again in sort of creating their own rules and re-verifying
                trademark rights and so on.

                So it was brought into address that. But it wasn't necessarily brought in to
                balance that with the rights of all sorts of other parties. It was brought in to
                determine whether what was being proposed was kind of proportionate. And
                it may be that it's – it maybe that someone isn't, you know, that it isn't
                balanced for a particular member of the community. But it's still nonetheless,
                you know, a reasonable thing to do in order to meet the purpose that it was
                intended to be brought in for.

                I don't think I'm explaining this very well. I mean, you know…

Phil Corwin: You know, I don't think it's a huge point. I mean, again whether it's fairly
                balanced or proportionate. I'd be fine if we stick with proportioned and maybe
                saying reasonably proportionate which gets into the fairness and I think
                brings in the concept of fairness and balance but keeps proportionate. So
                how about that? How about reasonably proportionate?

Susan Payne: Yes, I think that seems okay.

Phil Corwin: Okay.

Susan Payne: And bearing in mind of course the conversation that you had at the beginning which was all around this is only so that we all know the scope of our work and, you know…

((Crosstalk))

Phil Corwin: Okay so looking over on the notes, we're going now with "Are the costs and benefits of the TMCH reasonably proportionate among rights holders, registrants, registries, registrars, other members of the community and ICANN?" Question mark. Okay, is that – going once, going twice. Is that acceptable to the group? If it is we can finish our review of these questions.

And Mary is talking about costs and benefits or advantages or disadvantages. Well I think the word "benefits" and costs are broad enough that it – you know, Mary, that it encompasses advantages or disadvantages. And Kristine Dorrain has a similar point of view.

So that's an old hand from Susan. Unless someone has an objection to – well, it's changing as I stare at it. "Reasonably proportionate," okay so the alternative over there in the Note column, that's what we're going with unless someone wants to scream out right now an objection. Okay. We're done reviewing these questions.

Staff, please circulate to the working group a list of the questions in their final form as agreed upon by this group, send it out to the working group with a note to everyone on today's call and as well as those not participating that this is where we are, that they have until – let's say we're not meeting next week – they have until let's say December 30 to – if anyone wants to respond on the list with any further suggestions for modifying them.

But otherwise these are the final list of questions that will guide our discussion of the TMCH substance, which we're going to get into starting with our first call in January. So congratulations, group, we're done with that and can get into the much more exciting work of addressing the answers to all these questions.

We have 11 minutes left. We have these registry responses, that's a five-page document. I'm not sure we can get through a five-page document in 11 minutes. In fact I'm pretty sure we can't. What's the will of the group? Do you want to try to start going through this? We really could only do it for about eight minutes and then we've got to talk about the timing of the calls starting in the New Year.

So, you know, I'm going to exercise – unless someone really thinks we should get started on this, I think we should take up this registry response as the first order of business on the next call rather than try to rush through it now and forget all the nuance when we start addressing the questions. So I see some support for that sentiment.

So the final procedural thing we want to bring to your attention before we can adjourn this call is can staff put up the suggested time that the co-chairs agreed to yesterday when we spoke with staff and discussed call – timing of our calls on a monthly basis? Is that available?

Mary Wong: Hi, Phil. This is Mary.

Phil Corwin: Hi, Mary.

Mary Wong: We did not prepare a document. We did not prepare a document for it but as you, Kathy and J. Scott, know when we discussed this, the new proposed time would be the – would replace this specific time that we're having the call today, which is 2200 UTC at the moment…

Phil Corwin: Right.

Mw: …the proposal, Phil, would you like to go through a proposal? I can put the…

((Crosstalk))

Phil Corwin: Well, I don't have it in front of me. I do remember that for three calls a month we're going to keep using either – well the times we're using now with the clock turned back in many parts of the world of either 1600 or 1700 UTC. We move it an hour later to not clash with – I forget which group we're not – we're conflicted with once a month, but or twice a month. But we moved it back an hour to avoid that conflict.

                 And then the reason we're doing this because this 2200 UTC hour just doesn't work – we're still getting feedback from Asia Pacific participants that none of the times we're using now is really very good for them. So, Mary, what is the time we're looking at now to substitute for this 2200 UTC? And what time is – does it correspond to in some major time zones? Do you have that in front of you?

Mary Wong: That's what I just put in the chat. I do…

Phil Corwin: Oh okay.

Mary Wong: I put that in the chat. I realize there's a couple of people who are only on the phone. So essentially…

Phil Corwin: I'll read it out, Mary.

Mary Wong: …the proposal is to replace – okay go ahead, Phil.

Phil Corwin: Yes, yes, it would be 4:00 UTC, which is 8:00 pm Pacific Time in the US, 11:00 pm Eastern Time, 4:00 am in London, sorry about that, 5:00 am

Central European Time. So this is not a great time for Europe but I will note all the other times worked pretty well for Europe most of those calls are late afternoon in Europe.

It's 3:00 in the afternoon in Sydney and 12:00 noon in Beijing. So it's a much better time for our participants from the Middle East all the way to Australia. So there's no time available that's good for everybody in the globe. It's just the way it is. Everybody gets stuck with one – at least one crappy call a month. So – and George is asking is that's 4:00 UTC on Thursday? Which would make it still Wednesday in the US and Canada. Mary, is that what we're doing or would it wind up being late Tuesday night in the US and Canada?

Mary Wong: When the staff did the comparison, and first let me say I think in answer to a couple of questions or comments in chat is Phil, as you noted, there is no time that will work for everyone. So this time was one of a couple of times we sent to the co-chairs as being one that could work for many if not most. And that's why we didn't do a poll.

The original proposal we had for the co-chairs was to keep it on a Wednesday so that it would always be Wednesday whatever time UTC whether it's 1600, 1700, 0400. It is open to the working group to prefer to have it on Thursday 0400 UTC. It may depend on folks checking their schedules. But we did originally envisage it as Wednesday 0400 UTC.

Phil Corwin: Okay. Well let me suggest this, we've got 32 people on the call out of a working group membership of close to 150. And a lot of people in Asia are not on this. Why don't we put that proposal out on the list and solicit feedback and then we don't have to make this decision today but we do – the co-chairs do have to make a decision in early January about changing to a time that's more convenient for the folks who reside on the Middle East to Australia. So let's do that. And that would be once per month.

Also let me note that we're not doing it now but the co-chairs have discussed, and other working groups do this, that as we get into more substantive work and seeing how we're doing vis-à-vis our timetable, some calls may be expanded to 90 minutes to allow more to get done on them. So that we don't have to drop subjects in the middle of discussion and then have all the – lost the momentum of getting back up to speed on the next call. But that's not anything immediate but it is something we're considering as it is, you know, as necessary down the road.

So with that it's four minutes before the hour. Does anybody have any other business or anything they want to bring to the group's attention before we adjourn for the year? I'm just checking the chat room. Okay, so with that we're going to circulate the final questions to the group. We're going to circulate the proposed new time for one of the four calls each month being at 0400 UTC and solicit feedback on that.

And when is our next call, Mary, is it the first Wednesday in January?

Mary Wong: Yes, I believe that's true. And Michelle I think is just going to type that in the chat either to confirm it or to…

Phil Corwin: Okay.

Mary Wong: Yes, she's confirming is January 4.

Phil Corwin: Okay so everyone will be over their hangovers by then. That's good. All right well thank you and thanks for being so cooperative today and letting us finish up on the finalizing the questions. And everyone have a wonderful holiday and a very happy and healthy New Year and we're going to start the year by getting into real substance on the key questions before us on the new RPMs so rest up because we've got lots of work ahead of us. So happy New Year and speak to you all in the New Year. Bye-bye.

Petter Rindforth: Bye-bye. Same to you all.

Michelle DeSmyter: Thank you so much. Again, the meeting has been adjourned. Operator, please stop the recordings for us and disconnect all remaining lines. Have a great remainder of your day, everyone. Good-bye.

END