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**ICANN Transcription**

**The Review of all Rights Protection Mechanisms (RPMs) Sub Team for Sunrise Data Review**

**Wednesday, 15, May 2019 at 1800 UTC**

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JULIE BISLAND:

Good morning, good afternoon, and good evening, all. Welcome to the RPM Sub-Team for Sunrise Data Review call on Wednesday the 15<sup>th</sup> of May 2019. In the interest of time, there will be no roll call. Attendance will be taken by the Zoom room. If you're only on the audio bridge, could you please let yourself be known now?

Hearing no names, I would like to remind all to please state your name before speaking for recording purposes and also please keep your phones and microphones on mute when not speaking to avoid any background noise.

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With this, I will turn it over to Julie Hedlund. You can begin, Julie.

JULIE HEDLUND:

Thank you very much, Julie. I'll just quickly go through the agenda. Item one is the updates to statements of interests. Item two is a very brief update on the work plan and timeline. Three is the development of preliminary recommendations relating to questions 8, 10, 11, and 12. And four is any other business. May I ask if anyone has any other business?

Seeing no hands, I'm going to go back to agenda item one and ask if anyone has any updates to their statements of interest. Seeing no hands, let me go to agenda item two and ask Ariel to bring up the workplan and timeline. And Ariel, if you could let us know where we're at, that would be great. Thank you.

ARIEL LIANG:

Thanks very much, Julie. This is Ariel Liang from staff. As you can see, we're ahead of schedule at the moment, so today we will talk about Q8 because that discussion hasn't been wrapped up in the last meeting. Then, after that, will be Q10, Q11, and if we have time, Q12. So, after these questions, there are two more agreed sunrise charter questions left. That's the preamble question and Q5B. In addition to that, there are four more individual proposals left and you can see that's 1, 3, 7, 8.

We estimate that the sub-team should be finishing the work by ICANN 65 and hopefully before the start of the meeting. Just one more note is the staff and the sub-team co-chairs have discussed about the one

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single document that shows all the proposed answers and preliminary recommendations that we have captured and that will be shared with the sub-team at the end of the deliberation for you to check the wording and provide suggestions and input and also identify gaps. So, that's all I have for now. Thanks, Julie.

JULIE HEDLUND:

Thanks very much, Ariel. Let me go ahead and go to the next agenda item three on the discussion of preliminary recommendations. I'll go first to David McAuley I think who has an update from last week's call. There was actually an action relating to question eight from last week's call as well that Ariel can speak to after your update if that's okay, David. Thank you.

DAVID MCAULEY:

Thanks, Julie. Hello, everybody. As is our recent practice, Greg and I – the person who chaired the last call will just give a brief summary to sort of set the table and create the content for where we were at the end of the call last week. I chaired last week, so I'm happy to do that.

What I'm going to do is put into chat a link to the transcript from last week's call which started with charter question eight and that's the charter question that asked about limited registration periods, approved launch programs and qualified launch programs.

The two large points that came out of that discussion were – and I think Susan made this point best – is that we should not conflate these three.

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They are distinct. We shouldn't, for instance, conflate the ALP, the approved launch program with the limited registration period, etc.

The other thing that we spoke about is that this is of particular interest to registries and a number of persons amongst our registries were at the GDD Summit last week and so we mentioned that we should be willing to give them a chance to speak up on this.

We then move to question nine. There's been a spirited discussion on the list as you can see about question nine. It centered around a proposal that Michael Karanicolas made. The charter question involved in nine is: should the scope of sunrise registrations be limited to the categories of goods and services for which the trademark is actually registered and put into the Trademark Clearinghouse?

Michael made a proposal in this respect, and he and Kathy made the point that gaming's a problem, that data and anecdotes show us that, and that this is a discrete, specific solution, and they also mention that it's not just about registries and brand owners, but also registrants have to be kept in mind in dealing with this. Claudio, Phil, and Brian, both in their personal capacities and others – I think John McElwaine, Susan weighed in with questions probing in contrary positions on this, making the point that this might be ... The problem doesn't seem to justify the kind of bureaucracy or complexity that this might involve and not convinced that this needed a separate problem. Suggestions that maybe this could be addressed in the SDRP process, tweaking that a little bit.

Greg asked some questions trying to tease out information about what's the definition of abuse that we're dealing with in this proposal and what

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would be the method that a person would use to show use of the mark in the space related to the top-level domain? So, it was a spirited discussion to be continued on the list and that is roughly a summary of what went on last week. So, thanks very much, Julie. I'll turn back to you. I'm sorry, I'll turn it over to Greg.

GREG SHAHAN:

Thank you, David, for that excellent summary and thank you, staff, for getting us here. Couple of things. one, unfortunately I have a work commitment at the top of the hour, so assuming we are still engaged in a robust discussion, David will chair the last half hour.

Second, there is something that perhaps could be AOB but I'm not going to be around for AOB, is that I think maybe a clarification of our working method in this sub-team. I think it extends to the trademark claims sub-team as well, but that's not my job, so I'm going to apply it to this, which is that ... And this is in response to an email that Claudio sent saying that maybe his proposal shouldn't go forward as a recommendation from the sub-team, that it goes up to the full working group, but just be something that we throw out for public comment. I think that in this phase that is not the way we are working. If the individual recommendations, or recommendations that start being discussed in the group, don't get wide support, they're not going up as potential recommendations to the whole working group, so there is not a second list in that regard, so I wanted to clarify that, especially since Claudio is not on the call.

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So, I think, based on my notes and on David's discussion, that we are still discussing question 9 and individual proposal 13. Staff, is that correct or are we elsewhere?

CLAUDIO DIGANGI: Can I get in the queue at some point, so I can respond to what you just said?

GREG SHAHAN: Sure. Why don't you go ahead now, and I think we do have to go back to sunrise question 8, because we skipped it over the last time. But go ahead, Claudio.

CLAUDIO DIGANGI: Yeah. I'm not sure if it makes any difference to what you were describing as the working method, but I guess the point I wanted clarify is what we've been doing now is putting forward proposals and there's been an assumption that they are being put forward for potential adoption by the fuller working group and then being part of the final report. Am I correct from what you're saying then? It's not possible to put forward something that's not a proposal, and put something forward for potential public comment?

GREG SHAHAN: I think something that essentially takes on the form of a proposal or recommendation probably would not go forward that way, so I don't

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think that's possible. That's not to shut the door on anything other than potential recommendations.

Many preliminary reports have had questions in them, follow-up questions, gating questions, you name it. So I think there's more to a report potentially than just preliminary recommendations, but not putting forth preliminary recommendations that didn't get wide support in this group being put forth in a different guise. Hope that's clarified that.

CLAUDIO DIGANGI:

Yeah. It does, exactly. What you said actually was what I was thinking, which was – and I'm just trying to understand maybe how this would work. Maybe I would just wait until we're back at the plenary at the full working group level.

My thought was because of the discussion that we had where there was a lot of helpful feedback provided, and I was working through that and changing the proposal. And in the process of doing that, I realized that there was going to be significant changes made, and that it would help to get input.

Just to throw out an example, Kathy provided some feedback about Sunrise B and how it would work that way. And so I was thinking of listing the proposal with some questions for the community for the registries and the registrars to weigh in during the public comment process, just to get more information around how the proposal would

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be operationalized and just things like that. So I guess my only question is: should I wait until some later point to do that, when we're back at the plenary session?

GREG SHAHAN:

No, actually the opposite. We have an open discussion thread on this topic, including this proposal at this time. The proper thing to do is to after this meeting, run, do not walk, to that discussion thread and put what you want to put in that discussion thread to keep it moving and going.

And what might result from that is an actual recommendation with wide support or something where we've honed it and we actually might have legitimate questions about something that we agree could potentially be a recommendation subject to certain questions.

But the larger idea is that these sub-teams, claims and sunrise, are essentially acting as gates or filters for both individual recommendations, individual proposals, and also for proposals that are intended to become group proposals.

In other words, all proposals put in front of the group are intended to be reviewed and either put forward as potential recommendations if they have wide support or are not moving forward.

You could always go to the plenary and say an incorrect decision was made and we want to reopen that. I'll leave that to the co-chairs about how open would they be to that. But there is a presumption that we're trying to figure things out in this group in terms of what we move



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forward with, and that there really isn't a huge functional distinction between individual proposals and a proposal an individual makes that is intended to become a group proposal. Either way, it's either a successful proposal, and if it's not, it doesn't move forward.

CLAUDIO DIGANGI:                    Alright. That's very helpful. Thank you.

GREG SHATAN:                        No problem. So I think now, seems like the discussion we have in the list is more going to question eight, and that that's the first one under item three in the agenda, so we should actually go to question eight, not to question nine, and discuss the LPs, if you will.

So what we have here on question eight, on the limited registration periods approved launch programs and qualified launch programs, are limited registrations periods in need of review? Same question for approved launch programs and qualified launch programs. And then are there peer ALP and QLP periods in need of review? And what aspects of the LRP are in need of review? Fairly abstract questions in a sense.

I take seriously the idea that we need to distinguish these three things, and probably talk about them more or less separately, or at least two together and one separately. I see Maxim's hand up, followed by Kristine. Maxim, please go ahead.

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MAXIM ALZOBA: Could we please switch back to the document describing nine where there were words about the approved launch plan of Uniregistry?

As far as I know, there is a huge difference between some kind of launch plan approved by ICANN and the ALP, which is the approved launch plan. As far as I know, Uniregistry doesn't have it. We need to change wording to avoid confusion.

ICANN approved launch plan. Each TLD has to have launch plan and ICANN approves it. But ALP is something different. It's something where geo TLDs applied to have special kind of plan. For example, instead of sunrise in the first place, it's sunrise for the local trademarks, for example, and then the generic TMCH Sunrise. Could we switch the screen back to the document?

ARIEL LIANG: Maxim, we're not clear what document you're referring to because we're talking about the sunrise agreed charter question QA that's about ALP, QLP, and LRP and the proposal number—

MAXIM ALZOBA: It was proposal number nine. Could you switch to it, please?

ARIEL LIANG: : You mean Claudio's proposal that was related to question number one?

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MAXIM ALZOBA: The previously shared document which has big nine in the left corner. Could you please—

GREG SHAHAN: That's the individual recommendation, number nine.

MAXIM ALZOBA: Okay. Just note that is has a factual mistake with the wording approved launch plan. Thanks.

GREG SHATAN: Thanks, Maxim. Kristine, please go ahead.

KRISTINE DORRAIN: Hi, thanks. I guess I wanted to follow-up with the point that Phil actually just made in the chat about: "Question eight does not propose any modifications, just asks whether they should be reviewed. What are we going to do?"

I was actually going to suggest a path forward because this is really open-ended. And in the group where we came up with this question, it kind of – I don't actually recall if this was ... I know Laurie chaired this group and she's not on.

But if this question came from some of what we had called our issues report, or whatever document we were working from, or if this was something that we organically came up with as we were reviewing, but I think that one of the problems we had is we didn't have a lot of

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information. And I know that, as Maxim pointed out, there's only been one or two ALP, QLP type things. A lot of registries have run limited registration periods. I know Amazon's got experience with those. But there isn't a lot of data out there specific to the problems these people face.

So I think one of the things we could do here – I'm going to propose this path forward as a straw person and people can shoot holes in it if they want – is that we put that out to the community in our initial report, and we say we have gotten limited feedback that the way that the ALP/QLP/LRP systems ran did not intersect well with the sunrise period. They were really forced, and they made it unnecessarily hard for certain registry operators.

What we need is for people from the community to come forward and specifically describe the problems that they had and suggestions for improving that interaction. What would've made that interaction easier and better? That way, when we go back to write our final report, we'll have some information because the survey did ask for a little bit of information, but I think we only got one of those responses. Unfortunately, I don't think anybody really talked about LRPs in our survey, so this might be a situation where we need to actually use the initial report as a way to gather the missing information, so we know from the people who are being affected what solutions would have worked for them. Thanks.

GREG SHATAN:

Thank you, Kristine. I see Kathy Kleiman next. That's very helpful. Kathy, please go ahead.

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KATHY KLEIMAN: Yeah. Thanks, Greg. I actually just put it into chat that I support Kristine's way forward and that I think we should give our best shot at explaining what these terms are and seeing people agree and then seeing if we can put our finger on what we've heard at various public sessions, going back almost to the beginning of the working group, that there's a real problem here. But what the solution is is clearly something we don't know. Thank you.

GREG SHATAN: Thank you, Kathy. And, I guess, in an indirect answer to Claudio, this may be the kind of thing where we ask questions rather than merely throw out preliminary recommendation and it's not so much that we have a recommendation that we need to ask questions about that isn't getting traction, but rather that we're in need of information, data, anecdotes, whatever you want to call it, to know what the issue is and see if we can help these two programs intersect better.

So we have to think about how we would do this. Would we just put this out for public comment, and if we do we need something, as Kristine suggests in the chat, that essentially is an issues report. And we need to look at the definitions, the official definitions that exist, and see if they actually solve the problem of having a definition that is understandable. Kathy notes that they appear to not solve that problem. So it looks like we definitely need some information, as Kristine notes, more than data. We need suggested solutions so that's ... I think the invitation is for suggested solutions. I don't know that we have enough of a feel for the

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problem to suggest solutions ourselves, which is where we stand at this point. Maxim, please go ahead.

MAXIM ALZOBA:

Actually, as I reported to the group before, I had conversations with geo-TLDs, the group of the registries who had geo applications and then became geo-registries. And currently, the result was, yes, QLP wasn't the best thing but we could live with that if they reserve names, [ideas] do not change. Please, see QLP, ALP, and limited periods with the reserve names with ability of registry to reserve and release names because without it there will be no way to deliver police.newyork to police of New York and matter of some city which is older than the trademark holder itself. The [metro shops] to be delivered to, for example, Paris. Thanks.

GREG SHATAN:

Thank you, Maxim. Kristine, your hand is up.

KRISTINE DORRAIN:

Oh, thanks. I was typing in the chat but since I left my hand up I'll just say it. Response to Griffin about the definition of ALP and I want to just clarify that my specific comment is people who wanted to or did participate in either an ALP, a QLP, or an LRP, they know who they are. We don't need a lot of time to define or tell the community what these things are. If you are in one of those and you got screwed, you know that, and I think you have some pretty solid feedback and I don't think it's going to be super hard.

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And then I see Julie has a comment. “Do you have some questions to suggest that the sub-team could recommend being included for public comment?” Not off the top of the head, but I’m sure I can come with something and email it around. Thanks.

GREG SHATAN: Thank you, Kristine. Susan Payne, please go ahead.

SUSAN PAYNE: Thank you, although I can see Maxim has his hand up, and I think he was – oh, okay, it’s gone. Sorry. Yeah, I was just going to say someone’s been noting – I think it was Maxim – that there’s only been one ALP. He’s correct. As far as I’m aware, there has only been one that’s been approved. There have been a handful that have been applied for, and they, for whatever reason, haven’t gone forward. So like Kristine, I think we have a really defined group who have some feedback.

And whilst I would love to be able to say that the ALP process has worked wonderfully and has been effective from a brand owner perspective, I am prepared to acknowledge personally that I think there must be some problem with it if it took Madrid as long as it did to get an approved ALP approved.

So there clearly must be some kind of issue, either with understanding of the process or of how one goes about getting approval from ICANN. So I think it does warrant consideration.

But I think, as I said last week, lumping the three things together is less helpful, because I don’t think that we really have anyone with a problem

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with the QLP per se. We did have some feedback, which I think came from Amadeo, that said he'd had some problems, and then the QLP was enacted. And the inference from what I took from what he said was once the QLP was in place, that problem went away because the QLP addressed it. But I think there probably is – it at least warrants us getting some understanding from those who've attempted to go through the process of why it was such a pain point to try to get an ALP approved.

GERG SHATAN:

Thank you, Susan. Before we go to Maxim, it occurs to me – I'm listening to what you're saying, and to some extent what others are saying, that we may have a scope issue in that this is the sunrise subteam. So what we need to be thinking about is how either sunrise or these programs need to be tweaked so that first the friction is identified and then a solution is found.

The larger issue of how to run these programs, I think, falls into SubPro. So as whatever their problems are, if they don't have a sunrise-related aspect predominating, I feel uncomfortable discussing them here and would want to refer it over to SubPro, at least that's my thinking on that point. Maxim, please go ahead.

MAXIM ALZOBA:

Actually, just to correct Susan about that QLP has perfectly worked. QLP is limited to 100 items, and for a city in which more than 200 or 300 streets, [monuments,] points of historical importance, etc., it's not enough, because you can deliver police and few other important names,



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but in case of Moscow initially, mayor's office wanted to have the street names, and we told them, no, it's not possible because the number is limited to 100. And without being able to reserve and then to deliver those names in limited period where only the subsidiaries of the mayor's office, ministries of the city were eligible, it would be not possible to deliver those names to city.

And if we decide to make a situation where trademark owners will be able to challenge geo TLDs, we would see lots of things, including the local legislation, sourcing local geo registries to deliver those names.

If we don't want to be the cause of the segmentation, I would not definitely recommend to go this route. And that's why I recommend to see QLP, ALP and limited periods with reserved names altogether. If we separate it and we see it as something not tied, then we might create something unworkable, and I would like to underline that the only set of registries who are aware of these issues are geo registries.

If we take into account opinions of other registries, we might have opinion of those who actually saw how it works from outside and not particularly those who tried. Thanks.

GERG SHATAN:

Thanks, Maxim. Susan, please go ahead.

SUSAN PAYNE:

Lovely. Thank you. HI. Yeah, thanks, Maxim. I certainly didn't mean to dismiss your concerns if you had them, I just wasn't aware from what

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we'd got from the survey results that we really had anyone saying that there was an issue with the QLP.

So that's very interesting. Now, I suppose one way one might look at that then is that the QLP is a kind of standard approach, however many names it is, and I know it's 100 at the moment. The QLP is a kind of standard approach, and the idea is if what you want to do in your individual registry doesn't fit within that, that's when the ALP comes in. And of course, yes, I think the ALP has been difficult for applicants.

To go to Greg's point, I don't know what the [difficulties be.] That's where we started this out when Kristine raised it. But the interplay is with the sunrise, because the idea of the ALP, the approved launch program, is to try to get some kind of ability to do the launch process or phase which would be in breach of the sunrise, effectively. So i.e. being able to allocate more names than something like the QLP allowed you to do as a delegation from the sunrise, or being able to allocate to different parties in some way or being able to allocate earlier than the sunrise to certain sets of people.

Now, if it turns out that the feedback is that the issues have not been really sunrise-related at all and there's some other issue that's to do with, I don't know, how you deal with GDD stuff – I don't know. Maybe that isn't an issue for this working group, but that's the information that I think we need. But it definitely has an interplay with the sunrise.

GERG SHATAN:

Thank you, Susan. And I didn't mean to question that with what I said. So I think that it's fair to say that there is a good deal of this that

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remains in our jurisdiction, and I was thinking just of kind of more technical questions that have nothing to do with how it interacts with Sunrise or any sunrise effect or the like. As everyone, I think, has pointed out, maybe it was useful to do so. There are definite and I think identified friction points with sunrise and that need to be resolved.

So then the question is right now, I don't believe we have any recommendations. We have a discussion that we've had about having some questions and perhaps a micro, mini issues report that sets the table for those questions by coming out with the appropriate – with the official definitions and maybe some explanations if those definitions are impenetrable in some fashion.

I think that seems to be where we're headed. And then we try to get concrete problems coming back to us, fact-based expressions, ideally, of problems that did occur in the previous round or things that discouraged people from even going there because of the things that relate to the sunrise friction, if you will.

And I don't think we have much data on that yet, and we certainly don't have time for another data gathering process, so I think the data gathering process from this point on is the initial report, which does allow for specific questions to be asked to help to inform the working group.

So I think that's, to my mind, where we seem to stand on question eight. Anybody disagree with that or want to add to that? If not, then the next question is how to come up with this question set and maybe the micro, mini issues list.

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I have a deep desire to nominate Kristine and Maxim, because they understand the nuances better than many of us and have spoken to it very well, but that's of course unfair to voluntell anybody at this point to do that. But I'll throw the floor or the chat open to this. We can certainly just open up a thread on this, but an [unseeded] thread doesn't seem to flourish that much.

I see Kristine saying that "I'm sure we can work on something together, right, Maxim?" So I'm hopeful that we get a thread started in some fashion. Maxim and Kristine maybe can throw some stuff out there, and then we can work from there.

One of the things we need to do is distinguish between the ALP, QLP and LRP. And I see a question from Griffin. "Is it ALP is in need of review but not the QLP or LRP?" Is there any thought on that? Maxim, please go ahead.

MAXIM ALZOPA:

Please add the reserved lists, because if the reserved lists work the same as in the last round, so for example there are now challenges to the registry which adds some name for geo registry which adds name of a new monument for example or some particular station to the list by someone, by some trademark owner who has same string.

Then QLP and our limited periods, yeah, fine, but if it's going to be changed, then the whole structure which was used by old geos in the last round because of the absence of workable ALP is not going to work, and we might have issues. And I'm not even sure if it's going to be

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approved, because of the GAC, and yeah, basically registries too.  
Thanks.

GERG SHATAN: Maxim – Kathy?

KATHY KLEIMAN: Yeah. Thanks, Greg. Maxim, I think – or let me throw this out to everyone. Not to delay us on this, but if I recall correctly when we were talking about reserved names, we did not talk about generally expanding them beyond 100 if I recall correctly so that if that's the issue, we should be looking at reserved names specifically as applied to the – let me see if I can get it right – ALP, QLP and LRP.

So Maxim, if that's a specific problem, my sense is that we should deal with it specifically. Thanks.

GERG SHATAN: Thank you, Kathy. Maxim, back to you.

MAXIM ALZOBA: Actually, I meant the combination of QLP, LRP and reserved names. The thing is if we separate it from discussion about ALP and QLP, we might have issues on implementation level. And for QLP and ALP, what I heard from geos was, yes, 100 might not be enough, but we don't want to fight for it if it extends the next round. The same for ALP. If it doesn't work and geos can't deliver what they promised to cities. After all, it's

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possible to do by reserved list and limited period for the city. That's it.  
Thanks.

GERG SHATAN:

Thank you, Maxim. So, do we have any proposals? I think we still have this proposal to engage in a factfinding mission, and I guess the question is whether to do so with regard to reserve names, or at least the interplay between the use of reserved names in the ALP versus the sunrise. Again, I'm not sure we looked generally speaking at reserved names, which are, I think, definitely being dealt with elsewhere, but I think you're right in that if they are an element of the program, need to be looked at in that regard.

I see no further hands on this, so I think what I would hope is that the action on this hope is to either shift – there is already an open discussion thread for Q8, so we may as well use that for Kristine, Maxim and anybody else who wants to contribute to the planned questions for public comment to respond, and that's where I think we should go with this, definitely move tis to that particular thread. We don't need a new thread for it.

So now I think that does move us, if I'm not mistaken, to – sorry, I don't see the agenda on my thing for whatever reason. I think we're up to question 10 at this point now. Not unrelated to question nine [inaudible].

Explore use and the types of proof required by the TMCH when purchasing domains in the sunrise period. That's the entire question. It's not even phrased in the form of a question. That would fail on Jeopardy.

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I will open the queue. Michael Karanicolas, please go ahead.

MICHAEL KARANICOLAS: Hi. Thanks. Just before we moved on, I just wanted to do a quick aside on question nine if that's alright before we jumped over that. I know we had a good discussion on that last week and that there's a vibrant discussion on it going on on the list, but there is one thing that I wanted to draw the group's attention to, namely that I do think that there's some lingering confusion maybe about the phrasing of the question in question number nine as well as what's actually in the proposal, because I think that some of that – rather proposal 13, because I think some of that is at the core of some of the confusion, which was sort of just explained in comments that came through right before this call.

Question nine, I believe, mentions that trademarks should be limited to the use – or the application of trademarks as used in the sunrise should be limited to the use with which they were registered in the clearinghouse. And I think that that had led to some concern on behalf of some that if a trademark was only registered for one particular use but used for a bunch of different others, that brand owners would have to reregister a trademark multiple times leading to additional expenses.

So just to clarify that, I think that what proposal number 13 aims at is a narrower solution to that, and that's sort of why I was trying to push the conversation away from focus on categories of registration and towards more plain language justifications about the use of different marks. So I did want to make that clarification.

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I also wanted to interject as well to discuss that I think that there is still some disagreement as to how arduous the process would be or how labor intensive, and I do think that that's something that can be addressed based on the language and based on how stringent the test is made, but I think that that's something that can hopefully be worked out in discussion later on to try to minimize how challenging and time intensive and how much of an obstacle the test is to legitimate registrants, which I think we would all have an interest in minimizing.

So again, apologies if that's taking us off scope. That's not my intention, but I did want to interject that before we jumped from eight to ten, just to make sure that it was a bit of a chance to revisit that. Thanks.

GERG SHATAN:

Thanks, Michael. I have seen Mitch Stoltz's hand, but it has gone down, so I'm assuming that whatever he might have said was covered by you or obviated by what you had said.

I would suggest that we all go to the thread for question nine and deal with this there, and also just as a cautionary note, try not to deal with it on e-mail threads that are not question number nine thread, because all that means is that staff has to try to cut and paste us back into the thread [and more] people are on the other thread if that happens. So we just need to watch the process on that.

And certainly, Michael, if you have some suggestions about how those issues you mentioned might be resolved or mitigated, let's put them down there and let's see what other people think of them, and vice versa, let's see what other people think of as the issues with either the



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policy level or the implement ability of the proposal, or the basis of the proposal, whatever it might be. Let's get that into the thread, please. The threads are important.

So that brings us back to question number ten, not phrased in the form of a question. "Explore use and the types of proof required by the TMCH when purchasing domains in the sunrise period."

Any comments?

CLAUDIO DIGANGI: Greg, could you repeat that one again? I'm sorry.

GERG SHATAN: Sure. I'm getting some background, maybe that's just you, Claudio. Explore use and the types of proof required by the TMCH when purchasing domains in the sunrise period.

CLAUDIO DIGANGI: Okay. Thank you. Greg, [inaudible]?

GERG SHATAN: Sure. Go ahead.

CLAUDIO DIGANGI: I think this might be related to the [SDRP] policy. Maybe not directly but indirectly because the SDRP, the policy essentially involves whether the use of the mark is bona fide on some level. So I think they're

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interrelated, but of course, you could look at it separately. But I just wanted to note that.

GERG SHATAN:

Thank you, Claudio. I see the connection in that if there was going to be a challenge to a sunrise registration, the proof and the use potentially could be part of that challenge.

As we've discussed before, there's kind of a trademark clearinghouse side of this, and a sunrise side of this, and maybe a third side potentially if we look at the individual proposal on question number nine. Any other comments on this? I know there had been, I think, some discussion before. We know what the proof of use comments are, that what we have – oh, I'm missing people's hands because they are above my scroll. I'll stop talking and ask Kristine, followed by Phil and Kathy.

KRISTINE DORRAIN:

Thanks. I think you were actually coming to the point I was going to make, Greg, which is that I feel like we did discuss the use and types of proof required by the TMCH when we discussed the TMCH, and so I feel like probably this is one of those sort of vestigial questions that actually ended up getting looped in in a different conversation, because what we're talking about here is specifically the administration of the sunrise itself, and from the way the registries and as implement sunrise isn't at all – I mean it is literally a one or a zero. The trademark clearinghouse comes back with a "yes it's in here," "No it's not." That's it.

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So I think that this question doesn't actually belong here. And I think we've already discussed it. So unless other people think there's something else going on, that's where I think we're at here.

GERG SHATAN: Thank you, Kristine. Phil?

PHILLIP CORWIN: Yeah. Phil speaking in a personal capacity. [A lot of my] comment was similar to Kristine's. I don't understand what recommendations this question might lead to. There's nothing required by the TMCH when purchasing domains in the sunrise period. The question barely makes sense.

We are aware that there's some gaming in terms of what gets registered in the trademark clearinghouse. We can focus on whether we should tighten the requirements for what marks should be recorded there when we address the TMCH following the conclusions of these two subteams. That's our last task before drafting an initial report.

And the sunrise period is for rights holders to give them a chance to protect their marks against cybersquatting by putting them at the head of the line at the cost of generally a higher registration price, and the sunrise period, all the so called data listed and what I can see on the screen here seems to relate to questionable registrations of dictionary words.

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Without reading the article, I can guess those weren't for the purpose of protecting those marks against infringement but more likely for purpose of reselling those generic words in the secondary market.

So I think we should quickly dispose of this question. It doesn't seem apropos to what we're discussing, and it's poorly phrased and doesn't naturally point to any recommendations that might arise from it. Thank you.

GERG SHATAN: Thanks, Phil. Katy, please go ahead.

KATHY KLEIMAN: Yeah. Thanks, Greg. I respectfully disagree with Phil, and I will refer to the summary table, and particularly the data previously collected and the additional data submitted. So clearly, when this question was phrased, there was the kernel of a problem, but it was phrased very broadly on purpose. So explore use and the types of proof required by the TMCH when purchasing domains in the sunrise period.

So of course, as you know, to use – so our information says 96% of the active TMCH records are sunrise-eligible because you need proof of use to be in the sunrise, implying Deloitte is accepting the proof of use 96% of the time. And Deloitte has a clearly defined proof of use verification process.

So one of the things that I think this question or this sentence as part of question ten leads to, do we want to expand proof of use for all registrations [for all recordings or recordals] in the TMCH? If we're

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already at 96%, why not go to 100% and then there's no issue whether you're sunrise-ready? You're sunrise-ready.

I'll also note that our summary says a sunrise service "operates off the date in the TMCH" anecdotes about the actual potential abuses of sunrise by registrants, trademark owners, registries taking advantage of the TMCH may be a factor to consider in the working group's discussion of the use and types of proof required by the TMCH when purchasing domains in the sunrise period, e.g. token use in the TMCH validation system, so the token use is kind of applied to be a problem.

Then we have links to reports, blog postings, journalists talking about kind of stealing generic terms in sunrises and not by famous trademark owners. This is the gaming that we're talking about. Can we cut off the gaming?

So proof of use may be another avenue or an additional avenue to consider. We're already at 96% registrations, records in TMCH with proof of use. Why not go to 100%? It seems an easy way to make everybody ready for sunrise and probably cut down on some – not all, but some – of the gaming. Thanks.

GERG SHATAN:

Thanks, Kathy. [inaudible] that's probably an old hand, so I'll go to Maxim.

MAXIM ALZOBA:

As I remember, the conversations about the proof of use were not easy, because for example if we take the example I provided where the

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person sends 3D printed prototype of something to someone else, maybe his friend or neighbor, and [has] paid for it, and then [it's] used to be eligible for TMCH sunrises, actually, this thing cannot be distinguished from the real startup where people are just starting the ideas and the business. So I'm not sure that it can be resolved.

And in other conversations that we had about the eligibility where for example some company has right to sell food and then they use this name to sell bricks for example. But the registries, if it's not especially special kind of TLDs such as bank where they actually track if the bank has license and have procedures for extraction, they don't track contents of the websites, I'd say. And if there are no policies of the particular TLD preventing the registrants from some use which is different from what was [desired] by the moment of registration, there is no way to deprive the registrant from such registration.

I'm sorry for mistake, it's service, it's not something you can deprive the person of, but to cancel service. Thanks.

GERG SHATAN:

[inaudible] Susan Payne's hand, and unfortunately, I've come to my witching hour for this meeting. [I have a meeting in the office] I have to go to. So David, I will hand you the virtual gavel, or as it's called in Washington, the gravel, and call on Susan Payne next. Thank you all. Bye.

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SUSAN PAYNE:

Thanks, Greg. Bye. Hi, everyone. Thank you. I'm concerned by the attempt to use this [nonquestion] and interpret it in a way which would [inaudible] conversation and a discussion that we've had at some length in the claims group by virtue of interpreting question as in some way covering what percentage of TMCH users decide to lodge a proof of use or not, and the suggestion that, oh, there's only 4% who don't, so why don't we just make everyone do it?

There's a very good reason why some people have chosen not to do it. It's not very many of them, as has been noted. But the reason is because the claims doesn't require proof of use as it currently stands. And as I said, we've had an extensive discussion in the claims subteam about that very topic, and it is completely inappropriate to start trying to interpret this nonquestion in such a way as to reopen that. Thank you.

DAVID MCAULEY:

Thank you, Susan. Hello, everybody. I see that Kathy's hand is up. Before I go to Kathy, let me just make a comment that it may make sense to open a thread on this exhortation, this nonquestion and open the thread in such a way that Greg and I would work with staff to do the phrasing of the thread, because Susan raises a good point: we don't want to replicate what's being done in the trademark claims group.

I think my personal feeling is I tend to agree with the comments that were made by Phil, and I think by Griffin. But I think Kristine also had a good point. There's a genesis for this question, and maybe we ought to go back and look at what that is and open a thread for the next week or

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whatever it is that says, "The expectation is that this question will be passed on, but if you have anything you want to contribute germane to this that doesn't replicate what's going on in trademark –" I'm not putting the wording very well, but something along those lines. Anyway, that's just a suggestion. So I'm done with that. I'll next go then to Kathy whose hand is up. Go ahead, Kathy.

KATHY KLEIMAN: Let me just support what you're saying, David, that there's a genesis to this question. It is sitting in the sunrise summary table, and it's for us. So thanks. I look forward to discussing it on the thread.

DAVID MCAULEY: So I have a feeling that this draws a line under that, and again, staff, I think Greg and I would like to chat with you about that particular thread. I think it needs to be worded differently than other threads may have been. So that all being said, let's turn to question 11. There was a hand just for a moment. Susan, I see a hand from you. Why don't you go ahead?

SUSAN PAYNE: I didn't have a hand. Sorry. And my screen is going mad, so I don't know if everyone else is having the same issue.

DAVID MCAULEY: I think my screen was just going mad and I saw a hand from you and from Julie Hedlund. But I think I'm just going to chalk it up to initial



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Zoom experience. So let's move on then to question 11. I'll just go ahead – it's a short question – and read it out.

Subpart A: how effectively – I'm going to change one word. I'm going to change the word “can” to “are.” So let me say, “How effectively are trademark holders who use non-English script languages able to participate in sunrise, including IDN sunrises?” And B, should any of them – I'm not exactly sure what “them” refers to, but should any of them be further internationalized, such as in terms of service providers, language [inaudible] etc.

So I'm going to ask if anyone has comments on that. Maxim, I'm particularly interested if you do, but anyone else who might be using such non-English scripts and languages. Maxim, your hand's up. Why don't you go ahead?

MAXIM ALZOPA:

This time, I will speak in registrar capacity, because as you can see in my statement of interest, we're in cross-control with a couple of registrars in Russia, and on registrar side, we spend lots of time and efforts to actually advertise that lots of sunrises are going to happen by that time, and that all you need is to register your trademark in the clearinghouse and it will give you the opportunity of, I'd say, the first bite on those TLDs if you're eligible.

And there were very few registrations, and actually, one of the reasons that transliteration was not – one of the reasons was that transliterations were not allowed and it was a local habit of badly transliterating some term and using it in the local [ccTLD.] Thanks.

DAVID MCAULEY:

Thank you, Maxim. And I don't see any other hands in the queue. And if that's the case, then we can move on and put question 12 on the floor. I do see Michael's question in the chat, and if there's time after we get to 12, we'll come back to that. Or that can be treated in a thread. But let me go ahead and move on to 12. I'll just check one more time to see if there's any hands there or not.

Question 12 – it's also in two parts – A, should sunrise registrations have priority over other registrations under specialized gTLDs? And B, should there be a different rule for some registries, such as certain types of specialized gTLDs, for instance community or geo TLDs based on their published registration eligibility policies? Examples include police.paris and police.nyc for geo TLDs and windows.constructions for specialized gTLDs.

So unless my Zoom is again going crazy, I thought I saw a hand from Kathy. Maxim, is that an old hand from you, or is that a new hand?

MAXIM ALZOBA:

Just short notice. At the same face-to-face meeting, we have reference to Amedeo from [core,] they said that they experienced issues with TMCH because some of European languages with the non-English Latin script like something with hyphens, they had issues because some of the trademark owners couldn't register and use their name. That's it. Thanks.

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DAVID MCAULEY: Maxim, here's a question for you. The conversation from Amadeo, I thought I just heard you say that this was in the same conversation that was being referred to earlier in a different context. Is that a fair statement? Maxim, if you're answering, we can't hear you.

MAXIM ALZOBA: Yes. It's the same moment of time where core – I mean Amadeo was describing the issues with ALP, mentioned that moment. Thanks.

DAVID MCAULEY: Thank you. Thank you, Maxim. So what I would like to sort of say as an aside to staff is when we open a thread on question 12, let's try and get a link – I know there's a link to that comment from Amadeo. I can't remember where it is. Btu if we can just get it and put that link in the thread, that might be helpful.

So, looking at hands, I see Kathy's hand. Go ahead, Kathy. Take the floor, please.

KATHY KLEIMAN: Great. Thanks, David. I was wondering if we want to link the threads of question 12 and question eight, because – and everybody, correct me if I'm wrong, but it sounds like we're talking about geos again, looks maybe like we're talking about communities as well, but the issues in question 12 sound a lot like the issues we were dealing with with the ALP, the QLP and the LRP.

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So, does it make sense to break them out, or are there enough community TLD issues to keep these as separate questions? Can we merge them?

And I also wanted to go back to question 11 briefly and see whether that's a question that might be ripe for taking the approach that we took with – I forgot which question, but kind of phrasing some general questions for input from the public in the initial report to see more about what the problems are and maybe get a sense of how people would solve them. Thanks, David.

DAVID MCAULEY:

Okay. Thank you, Kathy. So I was going to comment, but I see Phil has a hand up. I'll go to Phil. Go ahead, Phil, take the floor.

PHILLIP CORWIN:

Yeah. Thanks. Phil speaking in a personal capacity. [inaudible] this question a bit more. I'm not sure what the term "specialized gTLDs" means. [inaudible] referred to community. Well, we've had very few community TLDs, and geo TLDs, other than reserving if it's dot-nyc or dot-paris reserving certain names, and they could do this in the reserved name policy for governmental [units.] That might well be in the registry operator's contract with the jurisdiction that consented to the TLD. I think that would take care of it.

For something like dot-construction, a lot of these verticals that suggest a certain – I'm not sure what construction means. Does that mean constructing buildings and bridges, or constructing websites? If they've

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got rules that they enforce on who can – what types of entities can register like dot-bank does or dot-insurance does or dot-pharmacy does, then that keeps other parties out, but if it's open to anybody, I don't know why you would have different sunrise registration rules [if the registered] mark might be more likely to be infringed in that particular TLD.

So [inaudible] I think generally, where I'm coming from is that if a TLD [inaudible] reserve name policy and if it has vetting rules for registrants, they can take care of it and it's not really our job to intervene in that. But it wouldn't suggest that no – unless it's a dot-brand or a heavily vetted TLD like dot-bank, there's no need for sunrise registrations. Thank you.

DAVID MCAULEY: Thank you, Phil. I saw Kathy's hand. Go ahead, Kathy.

KATHY KLEIMAN: I think we have heard about problems with reserve names, that 100's not enough. We heard that from Amadeo, we heard it from Maxim. So I thought with question eight, that's one of the things we are going out for, is to find out more about that. So again, I like the idea of joining up Q8 and Q12. It looks like there's some support for that in the chat. But I don't think we have a solution for all that yet. Thank you.

DAVID MCAULEY: Thank you, Kathy. And seeing no further hands or not hearing anyone jumping in, let me react to your suggestion that we join – see if we can

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join questions eight and 12. And I will discuss that with Greg and staff. Personally speaking, anything we can do to create efficiencies to move things along perhaps a little bit more quickly if we can, that would be fine with me. So I'm certainly willing to look at it, and as I said, I'll discuss it with the others. I think it will make sense so long as we do it in such a fashion that if somebody – that everybody understands that we're not trying to take away their chance to make a comment or anything like that. So we'll do it in such a way that it'd be open and allow folks to weigh in on either one question as they wish. But I think it's a great idea, so we'll do it.

And then your other comment was, can we join question 11, or can we treat question 11 as we did an earlier question? And I think the earlier question was on the ALP, QLP, etc. where we simply asked questions in our report for some additional information. And I would give you the same answer, I think we should look at that and see what we can come up with, and then pass it by the group. So thank you for the suggestions.

We are now through the charter questions that we had on today's agenda, and so we've come to that point – let me just take a real quick check for hands, but we've come to the point where there's AOB. So I'm going to turn it to Julie to handle the AOB portion. I don't see any other hands, so I think we're there. Julie, would you like to take that on?

JULIE HEDLUND:

Hi. Thanks, David. And just before I do that, just back to the question of merging charter questions and merging questions, it seems like there's two things on the chat, one is merging questions. And we don't see how

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that's possible, because these are the agreed upon charter questions. Okay, Maxim, it looks like, is saying that that's not necessarily what he meant.

Yeah, because I don't see how we can actually merge charter questions. We can indicate where there might be links between them or where recommendations might apply to both. And we'll discuss with you as you note offline as to what we might do with the discussion threads for questions. We have already opened one for eight, so I'm not quite sure how we would deal with that, but – and if we have discussion that happens on a newly opened thread, then we'd really have to kill that thread. So we'll talk offline with you about that.

DAVID MCAULEY:

Thank you.

JULIE HEDLUND:

And there was no Any Other Business per se when we asked, but one thing that – just going back to I think what Greg had mentioned before as Any Other Business was just how the subteam is operating and noting that this is, as he said, per the procedures, the procedures that were drafted for the subteams, that the subteams are to be drafting the preliminary recommendations and the answers to the charter questions and reviewing the individual proposals, and then making the recommendation to the full working group, and only those proposals that get wide support in the subteam would move on for recommendations to be considered at the working group level as possibly – say if it was wide support to include an individual proposal in

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the initial report and that would be the recommendation that would go up to the full working group, but there was not wide support then that proposal would not be put forth as a recommendation for the full working group for inclusion in the initial report.

And staff can send around those procedures again as a reminder, and I don't think I have anything else to mention, but I do see that Kathy Kleiman's hand is up.

CLAUDIO DIGANGI: Can I get on the queue as well?

JULIE HEDLUND: Yes, Claudio. Please.

CLAUDIO DIGANGI: Thank you.

JULIE HEDLUND: I see Kathy's hand is down, I think. And so I think it's you –

KATHY KLEIMAN: Julie, I have an Any Other Business, but I'll wait until after the discussion here. Thanks.

JULIE HEDLUND: Okay. And I'm just noting we have eight minutes left.



CLAUDIO DIGANGI: Yeah, Kathy, you can go ahead because mine is under AOB as well.

KATHY KLEIMAN: Okay. Well, does anybody want to comment on anything Julie just said? Because I don't want to cut off – it's an important issue kind of how we treat these proposals and ideas. So let me pause for a second.

Okay. I just had Any Other Business because we're coming into the Marrakech meeting and although schedules are subject to change, I wanted to let people know – and staff, correct me if I'm wrong, but our meetings look like they'll be taking place on the Tuesday and Thursday of the Marrakech meeting. Because this is a policy meeting, we don't have – it's short, we don't have the public forums and things like that. So the last day of the meeting, the Thursday is a regular meeting day.

So again, it looks like we're scheduled now for two meetings on Tuesday and two meetings on Thursday. I just thought that might be of interest to people. Thanks.

JULIE HEDLUND: Thank you, Kathy. And I do want to say that because the high-interest topics have not yet been agreed to and their placement in the schedule, we can't confirm right now that that will be the case. But as soon as the high-interest topics are confirmed and the schedule is confirmed, we will get that schedule out to all of you, because we know you need to plan. So thank you for that, Kathy.

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Claudio?

CLAUDIO DIGANGI:

Yes. So I initially did not have an AOB at the start of the call, but based on something that Greg said, I wanted to just [seek possibly] some clarification from David or others on the chain regarding the proposal, [inaudible] proposal that [inaudible].

I just wanted to clarify, because David said something around the new gTLD working group had sent this over to our team for consideration. So I guess what I was seeking clarity on is David had suggested in that e-mail that we potentially reinstate that discussion based on some of the input that the SubPro group sent over. I had suggested that we put this out for public comment, so I just wanted to make sure that we're doing the right thing here, and if there is a preference of [restarting the conversation] in light of what SubPro is saying, or putting it out for public comment, I'm just not sure if there's a preference there. I'm happy to do both, but since Greg referred me over to the list, I just wanted to see if I can gauge the temperature of the group in terms if there's any preference there.

JULIE HEDLUND:

Thank you for that, Claudio. And I see David has got his hand up, but I just think with respect to Greg's suggestion, I think his point was that we do have an open discussion thread on that item, and so that is still open, and we're welcoming yours and others' comments in that thread. And then based on that discussion, the subteam would decide whether or not to make a recommendation to put the proposal out to the full

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working group to put the proposal out for public comment in the initial report. I think that's generally how the procedures are set to work. But let me go to David. David, please.

DAVID MCAULEY:

Thanks, Julie. Thank you, Claudio. I just wanted to make sure we were clear on this. Claudio's proposal is proposal number nine, so that everybody would be able to look at the proposal that he made.

The SubPro team, what they sent over is actually captured in an e-mail from Jeff Neuman to our co-chairs of the plenary group, and Phil Corwin sent it on to us in an e-mail on February the 10th I think it was. So those two deal with [inaudible]. I can't recall right now that they're exactly the same, that they match up perfectly, but I think Greg and I and staff can take a look at that too.

But the other point I wanted to make is one Julie just made, that thread is still open, and so comments are welcome. So thanks.

CLAUDIO DIGANGI:

Okay. Thanks.

JULIE HEDLUND:

Thanks very much, David. Thanks, Claudio. We have four minutes left. Does anybody have anything else they wish to raise? I'm not seeing any – David, I think that might be an old hand.

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DAVID MCAULEY: Sorry about that.

JULIE HEDLUND: It's okay. I want o thank David and also Greg for both chairing today, and thank you all for joining us, and we hope you have a great morning, afternoon or evening, and this call is now adjourned.

CLAUDIO DIGANGI: Thank you.

DAVID MCAULEY: Thanks.

JULIE BISLAND: Thank you, Julie. Thanks, everyone. This meeting's adjourned. You can disconnect your lines and have a good rest of your day. Bye.

**[END OF TRANSCRIPTION]**