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ICANN67 | Virtual Community Forum – GNSO Review of all Rights Protection Mechanisms in gTLDs (3 of 4)  
Wednesday, March 11, 2020 – 10:45 to 12:15 CUN

MICHELLE DESMYTER: Hi. Welcome, everyone. We're about a minute and a half until we're ready to start. So, please continue to stand by thank you so much.

Hi, Phil. We're right at start time. Would you like to give it another minute or would you like to get started? I'm not able to hear you if you are speaking. Phil, could you please check your mute button on your phone? I'm not able to hear you.

JULIE HEDLUND: Michelle, it looks like Phil is showing up as away.

MICHELLE DESMYTER: Yeah. I'm sending him a chat right now.

JULIE HEDLUND: Thank you.

MICHELLE DESMYTER: Certainly.

JULIE HEDLUND: And we probably could wait another minute or so anyway, just to get a few more people—

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MICHELLE DESMYTER: Absolutely. Thank you.

JULIE HEDLUND: - while we're getting Phil.

PHILIP CORWIN: I'm back.

MICHELLE DESMYTER: Hi, Phil. So, whenever you're ready, just let me know. We're about one minute past but ...

PHILIP CORWIN: Give it 30 seconds and then let's roll.

MICHELLE DESMYTER: Perfect. Okay. Thank you so much.

Good morning, good afternoon, and good evening to all and welcome to the Review of All Rights Protection Mechanisms in gTLDs Meeting on Wednesday, the 11th of March 2020. Today's meeting is being recorded. Please remember to state your first and last name before speaking. And please keep your phones and microphones on mute when not speaking to avoid any background noise. With this, I will turn the meeting over to Philip Corwin. Phil, please begin.

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PHILIP CORWIN:

Yeah. Good morning, afternoon, and evening to all our working group members. And I see we have some guests today. Let's stop right here and see if any working group members have updates to their statements of interest since yesterday's call. Not surprised that I'm hearing none.

Our agenda today is we're going to be reviewing some more revised text, based on our discussion yesterday, just for the initial report, regarding the relationship of some of our URS recommendations to work of the EPDP Phase 1. Most were regarding revelation of the registrant's contact information and whether that's going to be published if there's a decision. The complaints, URS, are not published. But the decisions are and most of them are default decisions. Then we're going to review some final boilerplate sections from the initial report. And then, we're going to take one last look at the public comment, too.

Let me say, for ... I see we have a number of visitors today who are not members of the working group. This discussion today will probably be pretty dry and boring, which is what we're hoping for. We're past the decisional stage here. We're on our, hopefully, final day of reviewing the initial report, looking toward publication for public comment next Wednesday, the 18th. If for some reason we don't finish today, we have one hour scheduled tomorrow to wrap up our work if necessary but we're hoping it won't be. And if any non-working group members have any questions or comments, I'll reserve a few minutes at the end of today's session for that.

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I want to note, I don't see one of my co-chairs, Brian Beckham, with us yet. I don't know if Brian is able to join or is tied up in the GAC. And Kathy Kleiman, the other co-chair, she's a professor at American University School of Law. She let us know a little while ago that American University is shutting down until further notice and she has to be over taking care of some classroom matters related to that. Unfortunately, that's the world we live in right now. So, we wish her and the students there the best.

And with that, let me ... Let's get into item two of our agenda. I believe staff has some new language to share with us that we can review and discuss.

ARIEL LIANG: Hi, Phil. I have my hand up.

PHILIP CORWIN: Yes, Ariel. Could you explain to us what revised language we'll be discussing right now?

ARIEL LIANG: Yes. So, the preliminary recommendation one for URS doesn't have redlines because what staff did is to accept the minor edits that's agreed by the working group in the call yesterday. And you can probably see the parts. For example, the first paragraph, the additional phrase, "Where necessary, a URS provider's supplemental rules," this has already been incorporated. And then, in the second

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paragraph, we reverted to the original wording but added some additional clarification that's agreed by the working group, such as clarifying it's two to three calendar days, because before was just "days."

So, that's already been accepted. That's why you're not seeing the redline. And then, the red line we're going to review is mainly in the new URS, question number one. And we note that it's related to this URS recommendation number one. So, we can—

PHILIP CORWIN:

Okay, Ariel. Wait. Don't scroll down yet. Go back up. Let's just give everyone another 20 seconds to look at this. I'm going to read through it. I don't see any problems but let's make sure everyone's fine with this slightly amended language based on yesterday's conversation, where we are recommending that "URS rule 3b, and where necessary a URS provider's supplemental rules, be amended to clarify that a complainant must only be required to insert the publicly available WHOIS/Registration Data Directory Service data for the domain name or names at issue in its initial complaint.

"Furthermore, the working group recommends that URS Procedure paragraph 3.3 be amended to allow the complainant to update the complaint within two to three calendar days after the URS provider provides updated registration data related to the disputed domain name or names."

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And then, it notes it's related to question one. Any comments on this slightly amended language? If not, we'll move on to the new section, URS question one. Okay, let's scroll down to question one.

ARIEL LIANG:

I actually wanted to mention that there is some redline added in the contextual language for recommendation one. And so, what we accepted was also the part the working group already agreed on yesterday that provides additional context to the three EPDP Phase 1 recommendations.

And then, in particular, we provided some edits to the paragraph you are seeing right now. What we did is to quote verbatim from that particular EPDP recommendation so that we did not rephrase it. We just quoted directly from what this recommendation is about. So, that's some redline in this contextual language.

PHILIP CORWIN:

Okay. Let's just go quickly through that new language. We changed the word "confirms" to "states." And that's Appendix D. And then, the next sentence is substantially revised. Let's read it. "If the gTLD operates as a thin registry, the registry operator must provide the available registration data to the URS provider. And if the domain name or names subject to the complaint reside on a thin registry, the registrar must provide the full registration data to the URS provider upon notification of a complaint." And you said that's straight out of the EPDP Phase 1, recommendation?

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ARIEL LIANG: Yes, Phil. It's from Annex D of the Temporary Specification. So, that's the quote from the Appendix D.

PHILIP CORWIN: Okay. So, we're clear in the language preceding this that this is what the EPDP Phase 1 recommended? Is that clear in the text?

ARIEL LIANG: Sorry. The quote is from Appendix D of the Temporary Specification. And that's just to provide additional context to the EPDP Phase 1 recommendation.

PHILIP CORWIN: I'm just asking. I want to make sure that somewhere in this language—and I would scroll up on my own but I can't—we make it clear that we are simply following exactly the recommendation of EPDP Phase 1 on this matter. So, is that clear from ... Okay. Down here. Okay. That's fine. And if anyone in the community thinks we're not being consistent, they can raise that in the public comments.

JULIE HEDLUND: Phil?

PHILIP CORWIN: Julie? Yes, Julie.

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JULIE HEDLUND: Griffin Barnett has a question in the chat. He’s asking, “Is there a corresponding quote from EPDP Phase 1 report as opposed to pulling from the Temp Spec?” Afraid I don’t know the answer to the question. Okay. And Ariel says she’s addressed it. So, sorry about that. Are you okay with the response, Griffin? “Yes,” he says.

PHILIP CORWIN: Okay. Good. All right. So, let’s go down to the new language based on our discussion yesterday. Okay, so all of this is ... Everything in green is new?

ARIEL LIANG: Yes, Phil.

PHILIP CORWIN: Okay. And how long does this go on?

ARIEL LIANG: It’s just one page.

PHILIP CORWIN: It’s just one page? All right. Let’s go through. I’m going to read it out, particularly for those just on the phone. I think this is the only new language we have to review today. So, let’s go through it carefully one



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time and make sure it reflects where we wound up yesterday in our discussion.

URS question number one, 1a, “Should URS rule 15a be amended to clarify that where a complaint has been updated with registration data provided to the complainant by the URS provider, there must be an option for the determination to be published without the updated registration data?” And again, these are all questions to the community. 1b, “If so, when, by who, and how should this option be triggered?” and 1c, “Are there any operational considerations that will need to also be addressed in triggering this option?” Then it says, “This question is related to URS recommendation number one.”

Let me continue reading. Context, “This question specifically concerns the following URS rule.” Then, it quotes URS rule 15a. I don’t think we need to read that all because that’s straight out of the URS rules. So, we’re not going to be discussing any change on that. But it’s about the provider publishing the determination on a public website when there’s a decision in a URS case.

And it goes on, “Currently, it is not possible to file an amended complaint under the URS. The working group’s URS recommendation number one, if approved, will change the status quo and permit the filing of an amended complaint following a complainant’s receipt of updated registration data from a URS provider.” And just for context, that’s when the registrant information is not available upon filing, so a so-called Doe complaint is being filed.

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Continuing with the text, “This will mean that without further amending the URS, specifically rule 15a, the previously redacted registration data will be published, along with the determination of the complaint.”

New paragraph, “The working group is seeking community input as to whether it would be appropriate to also recommend that rule 15 be amended in order to allow for redaction of registration data upon publication of a determination and if so, in what circumstances? In agreeing to put out this question for public comment, the working group noted Phase 1 recommendations from the EPDP Team on the Temporary Specification for gTLD registration data that are relevant to the RPMs, in particular recommendation number 21, which was referred to the working group by the GNSO Council and they requested the working group considering this question.”

So, wrapping up here. And there’s a footnote that quotes EPDP recommendation 21. Final language here, “The working group will also welcome community input more generally as to whether its preliminary recommendations concerning the URS are compliant with applicable law, including the GDPR, and consistent with the EPDP Team’s intentions and Phase 1 recommendations.”

So, wrapping up, we’re recommending a change in the URS rules to permit the filing of a so-called John Doe complaint when the registrant data is not available at the outset. We’re clarifying who supplies the updated registrant data for a thick registry or a thin registry. And then, the question out to the community is whether

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including that registrant data would be consistent with applicable privacy law, and if not, how that consideration should be taken into account.

I see Susan Payne’s hand up, so Susan, go ahead with your comment and we welcome other comments.

SUSAN PAYNE:

Yeah. Thanks, Phil. So, I put my hand up just in relation to the last ... I’m not sure if it’s a sentence or paragraph but it goes over the page. And I just wondered if this was an appropriate place to say that ... Where we’re asking about whether the recommendations are compliant with the EPDP Team’s intentions and Phase 1 recommendations, should we say something like that we’re looking for input from the community and in particular from the EPDP Team? Because it seems to me that, really, they’re the ones who can tell us whether this is compliant with what their intent was.

The rest of the community might well weigh in with their own opinions. But that’s really no more use to us than our own opinions. Does that make sense?

PHILIP CORWIN:

Yeah. I think it’s fine to add that. I don’t—if anyone has an objection. But I think that’s a good suggestion. And also, my own suggestion would be that the next parenthetical, where it says, “including the GDPR,” I would suggest amending it to “including the GDPR and other applicable privacy laws,” because they’re proliferating like crazy. And

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we're seeing a lot of state legislation in the US. We're seeing other national laws around the world. So, to just be considering the GDPR would be to have blinders on, at this point.

Professor Tushnet, I see your hand up. Please go ahead. I think you're muted at our end. Can we unmute her? Okay. You're unmuted at our end.

REBECCA TUSHNET:

Thank you. So, I think when we're seeking comment, especially from EPDP, I think it would be worth saying—basically, keeping in mind—that most URS proceedings, including URS proceedings where the complainant does not prevail, are defaults. So, I think those of us who are in the weeds know this. But that's actually really the most relevant point here, that they're mostly defaults, even the ones where the complainant does not prevail. And so, I think we should seek commentary specifically on that. Thank you.

PHILIP CORWIN:

Okay. I'm pretty sure that elsewhere in our report, we note that most URS complaints, that if there's response, they're so-called default determinations. I wouldn't object to putting in some cross reference to that somewhere in this language. Would anyone have an objection to noting that in this language?

And what I would suggest is ... Maybe staff can get back to us before the end of this so we can move on. But I'm sure that elsewhere in the report, we have a finding that most URS are default cases and we can

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simply cross-reference that somewhere in this language as a factual matter to be taken into account. I'm not seeing any hands up so we'll let staff work on that and then circle back to it toward the end of the call.

Okay, are there any more comments on this language? Susan, please go ahead.

SUSAN PAYNE:

Just quickly to note ... The people who were in the Zoom Room will have seen that I made a couple of fairly, what I think are quite minor and hopefully acceptable edits to the penultimate paragraph. I think when you were reading it out, you were adopting my edits. So, I just, for the sake of completeness, wanted to be certain that they've been addressed and that the group had agreed with them or not.

PHILIP CORWIN:

Okay. So, you added the phrase, "and if so, in what circumstances?" I think that's just fleshing out the ask of the community. And you're suggesting that "specifically discussed" be stricken and instead "noted." I don't recall, personally, the level of discussion we had on those Phase 1 recommendations. But I think the key thing is that we did discuss them, and this reflects that, and it's probably not worth quibbling over how we characterized that consideration, particularly since we're asking the full community and the EPDP Team right now to comment on whether we got it right. Julie?

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JULIE HEDLUND: Thank you. I'm just calling out a suggestion from Griffin Barnett in the chat. He says, "I wonder if it's more relevant to reference EPDP recommendation number 27 instead of or in addition to number 21 in this section. That seems to be more relevant to this question." Or he says, "In further consideration, maybe reference both," thinking that 27 is also relevant. Any objections to that?

PHILIP CORWIN: Thank you for that suggestion, Griffin. That seems—just adding 27 in the text and adding the text in the footnote. Yeah. Let's do that and let the community decide which is more relevant. They're probably both relevant. Susan, that an old hand?

SUSAN PAYNE: No. Afraid not, Phil. Thanks. Yeah. I just wanted to correct the record a little bit. Because I think the whole—or my point certainly would be—that we haven't discussion the Phase 1 recommendations from the EPDP—and that's why we've ended up—save our discussion that we had yesterday, which basically was about process rather than the merits or the substance of those recommendations.

So, my point is that we actually haven't discussed them. And consequently, I made that amendment. And I just wanted to correct what you had said, that you felt that we had had some level of discussion on those EPDP recommendations and I would disagree with that.

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PHILIP CORWIN:

Actually, I said I didn't recall what level we had had. So, I'm not going to disagree with your characterization. But we're going to get into that in detail before we publish a final report based upon the community feedback. So, we will have that discussion if it hasn't previously occurred.

Are there any more comments on this language or can we wrap this up, other than the cross reference that staff will bring back. Ariel and then Julie.

ARIEL LIANG:

Thanks. Just to call out the chat that others also noted, the EPDP recommendation number 23 is also relevant. So, perhaps we can just delete the phrase, "In particular, recommendation number 21 and recommendation number 27 ... " Just delete that and then, in the footnote, we'll just reference all three EPDP recommendations so we're covered.

PHILIP CORWIN:

Yeah. What I would suggest is strike "in particular," put "specifically," and then list recommendations 21, 23, and 27. And put the text of all three in footnote 17. And that way, we're being comprehensive and community members will have all the relevant text right there in the report and won't have to look it up.

All right. Is there further discussion beyond what we've already agreed to, in terms of fine tuning this language? All right. Then, it's accepted. What's our next piece of business?

ARIEL LIANG:

So, the next one is to review the previous section that the working group did review but has questions and pending action items for staff to complete. So, I'm going to put the document in the chat. It's mainly about the overarching charter questions.

So, staff did take a look at the charter. And we cross-referenced with the other document that contains these questions. And then, we clarified that, indeed, there are only three general overarching charter questions so we have listed this in this section. It's the annex for charter questions.

And then, just another part of this. So, we have a question about whether the working group would like to include some of the additional charter questions. So, if you recall in the charter, at the bottom of it, there is a long list of questions. And then, based on staff's review, we believe most of them have already been addressed by the working group during its deliberations. But there's three of them that perhaps hasn't been addressed sufficiently. That's why we singled them out here as well. But our question is whether the working group would like to cull out these additional questions and also ask the community to provide input. So, we have that general question here.

PHILIP CORWIN:

Okay. So, can we just scroll back ... By the way, under "additional charter questions," in the first bullet, if we can go back to that ... No. Go down. Yeah. "Do the RPMs adequately address the issues of



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registry protection?” You didn’t close the parenthetical after “fair use.” So, that’s a typographical error. Just wanted to call that out before ... Do you see, under “additional charter questions?” No. Down below, the first bullet. You open a parenthetical before the word “such” but it’s not closed. Okay. That’s fixed.

So, let’s scroll up to the new language. And again, this is work we’ve already reviewed. These are staff fine tunings based on prior discussion. There was something highlighted just above that. Just the words “three general.” We put in the word, not just the number. And so, we’ve clarified that there were three general overarching questions and they’re listed below, number one, two, and three. So, the question is whether to include these other charter questions. And Professor Tushnet, I see your hand up.

REBECCA TUSHNET:

Thank you. I don’t understand why we are revisiting this extremely long-discussed issue. Those are actually overarching charter questions as well. They apply to a lot of stuff. We agreed to keep them in, in part because we need feedback from the community. And I don’t think it is a good idea to try and kick them out at this date. Thank you.

PHILIP CORWIN:

Let me just clarify. You’re objecting to the possibility of those three additional charter questions being struck from the text. Am I correct that you’re not objecting to them being characterized as additional charter questions, as opposed to overarching charter questions?

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REBECCA TUSHNET: Look, I think that’s silly but I’m not going to go to war on it. I do think it is a bad idea to try and remove them after they were part of something that we talked about for years, really, at this date. Thank you.

PHILIP CORWIN: Okay. Any other comments on that? I don’t personally—taking off my co-chair hat—see any reason to strike them. They’re in the charter anyway. And the community is free to add comments about anything they want to on the subject of RPMs. Does anyone want to make an argument for striking them or is everyone okay with this text as it now stands? And if you’re okay with it, you don’t have to raise your hand or speak out. I’m going to take that as a yes. Let’s move on.

ARIEL LIANG: Thanks, Phil. So, that basically confirms the next steps. It’s basically the same content as what you saw in the charter question document. I’m going to put this in the chat. So, we’re repeating the overarching charter questions and also the additional charter questions, so basically a total of six that will also be included in the public comment Google Forms to solicit input. And then, basically, we’re duplicating what’s written in the charter questions annex. So, that’s the remaining action item that is completed.

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PHILIP CORWIN: Okay. So, this just confirms the next steps section to the section we just reviewed?

ARIEL LIANG: Yes. Correct.

PHILIP CORWIN: Okay. Any comments on this? And I think our visitors can now see why I characterized our discussion as probably being pretty boring and dry today. But that’s the way we like it. All right. Next item.

ARIEL LIANG: This is Ariel again. So, we have effectively reviewed everything. And next step is actually for staff to finalize all these texts and put them all together into one Word document. But we don’t think we can do that right now, during the meeting. So, we can do that shortly after and circulate the complete Word document with the working group.

And then, with regard to the particular contextual language, when we discussed URS question number one, we will cross-reference the URS case—most of them are default case. We can quote that. And then, we think probably it’s helpful to include that cross reference in the second paragraph in the contextual language, at the end of the paragraph. So, we think that’s probably a good placement. But I think, probably, for efficiency, we can just do that on our end. And then, when we circulate the complete Word document, we can highlight that sentence. And if folks have comments, they can check the language there.

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PHILIP CORWIN: Okay. So, Ariel, you're saying that staff, following this meeting, is going to make some final editing changes to the language we've reviewed today, you're going to circulate that to the full working group, and that the cover email will note, or it will be highlighted in the text, the final edits so that any working group member who wants to comment on them can before publication of the initial report. Is that correct?

ARIEL LIANG: Yes. In general, yes. And then, I just wanted to note that for the URS sections, staff also have to do some rearranging of the question numbers that you can see because we have created a new question now so we have to move down all the others. And that's why we'll take a little bit of time to format them and make sure we didn't get the numbers wrong. But we will circulate the Word document shortly after today's meeting.

PHILIP CORWIN: Okay. So, we're not publishing the initial report until a week from today, the 18th. And you're saying that later today, working group members will have the final edited text. Is that correct?

ARIEL LIANG: Yes. That's the goal. Sorry. The reason why we do need some time is because the web admin needs time to publish everything. We also need to send to translation to translate the executive summary and all

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these things will take time, too. So, that's why it's better we get this done earlier than later.

PHILIP CORWIN: Okay. So, we've now completed our review of the text of the initial report. Correct?

ARIEL LIANG: Yes. That's correct.

PHILIP CORWIN: Okay. And on the agenda, were we planning to look again at the public comment tool or have we already done that? I know we've had some discussion.

ARIEL LIANG: Sorry I'm talking too much. But yes. We are going to talk about this again because we did hear or observe some concerns from some community members about the use of this Google Form. And we're happy to address them. And if there are other questions or comments during the call today, we will try our best to answer them with regard to this Google Form.

PHILIP CORWIN: Okay. I'm going to, after making a brief personal comment, stand back and let staff take us through this a bit and then open the floor for comments or questions. Since we have community members who are

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not working group members, this would be a particularly appropriate subject, if you want to speak out.

Having been through comment processes for almost 15 years with ICANN, and having drafted comments before in that former freeform style, where you're just given a report and asked to comment in any way you wish, my personal view is that this new public comment document is an improvement overall—that whatever's lost in distinct individuality of comments is more than gained by particularly giving staff a very quick and easy way to characterize community reaction to recommendations proposals.

When that part is essentially in multiple choice, where you have to say “support,” or “support with minor changes,” or “support with significant changes,” or “oppose,” it's going to give us a much more reliable statistical picture of the level of consensus or opposition within the community. And then, of course, anyone can add as much additional comment as they want on any recommendation, any proposal, and any of the questions put out to the community.

So, personally, I think it's good. I see Lori's hand up. I'll take your comment, Lori, and then I'm going to let staff take us through this and then take additional questions and comments. Yes, Lori.

LORI SCHULMAN:

Yes. My issue with this ... Although I agree it's easier for staff, what I worry about is that it might deter people to comment who don't normally comment. And this looks very insider. I'm not sure how to

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balance that with ... I know the staff has a large responsibility of sorting the data when the comments are in. But this is a concern I have.

The other concern that I have is when you say you can add what you want, the experience that we had with the EPDP form when we used it last year is that we couldn't add whatever we wanted. And it took hours, and hours, and hours to fill a form that, quite frankly, I ended up submitting a text document to Marita because I couldn't use the form because we couldn't get our comments all in.

So, one, the question I have is what are we going to do for people who aren't inside players? How are we going to encourage them to use this form? I think we have to think about instructions that say it's okay, maybe, to fill out one or two things or have some alternative way to get opinions in. And secondarily, for those who are inside baseball, are we fixing the glitches? Can we put things in or is there going to be a text length? And if there's a text length, we need to know it up front.

PHILIP CORWIN:

Okay. I appreciate your concerns, Lori. I wasn't aware. I haven't personally tried to fill out one of these comment forms. This is a recent development. Let me ask staff to, one, respond to Lori's concerns. And also, can you clarify whether this new format is something that Council is encouraging as part of its overall PDP 3 effort? So, questions to staff on addressing Lori's concerns and the extent to which this new form is something that's coming at the initiative of Council.

ARIEL LIANG:

Thanks, Lori and Phil for the questions. Regarding Lori’s question about insider impression, we do want to note that at the beginning of this form, page one, it does have pretty clear and thorough instruction what this is about. And people have no obligation to complete all the sections, and if they want to complete a response what they should reference, and how to save their progress, and this kind of instructions. We do want to provide these upfront so the commenters should read—must read, actually—before proceeding so they know what they are doing in the form.

So, if you see any of these instructions can be enhanced to make it clearer, please let us know and we’re happy to incorporate them. So, that’s the first point.

And then, the second point is if you look at the variant of the form, there’s actually a section for open-ended comments. They’re not necessarily tied to any specific recommendation or question and they can write whatever they like, really. So, we hope this will help balance some of those needs, for people to write more open-ended comments.

But we do want to note that the reason we had to use this form is we have about 67 items for people to comment. That includes 26 recommendations, 17 community questions, and then also another 20-something individual proposals. But if they write everything into just the one novel—some kind of comment—it’s going to be very hard digest. It takes time for staff to even compile them. That will take



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longer for the group to review them. So, it's really the benefit for all of us to make this an efficient exercise. That's the first response.

And then, regarding PDP 3.0, we don't believe that's one of the outcomes of PDP 3.0 implementation work. But this is a general direction where ICANN is going to, to facilitate this public comment process. And if folks want more information on that we'll check with Mary because she also is leading the team that's improving the public comment process. So, that's the first two responses. And I see a lot of hands.

PHILIP CORWIN:

Yeah. Let me say this before calling on some of those other hands. I'm going to ask staff to review the chat—I think we're getting some very good points made in the chat—and look toward getting back to the working group with a slightly revised introduction here, which makes it clearer.

And maybe we need to use bigger type for this section, that one that community members don't have to answer ... You don't have to fill out everything. You can choose what you want to respond to. That makes clear that if you want to make general comments beyond the scope of the questions posed in the form about anything, that there is there is this section 11 that is set up specifically for long essay-type submissions beyond the questions being asked in the comment document. And that also points out that the questions can be converted to another form, as pointed out by Heather in her comment, so that's easier for people to work at.

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So, I think those are all just things to consider. I see one comment here from Phil Marano that he's opposed to the form no matter how it's revised. And I would agree with his last statement. This was a point I was going to make personally, that it's a proposal concocted to counter the spam-like public comments that ICANN occasionally receives. I think recently we've seen more than occasional comments without significant content. So, this type of form can keep it out but it does act as some type of filter against folks just emoting and not being specific in their responses.

I'm going to stop there. Those were personal comments. And Lori, did you have further comments or is that an old hand? So, let's hear from Susan Payne, and then Julie, and then ... I'm checking the time. We've got until ... All right. We're about halfway through our time so we're in good shape here. Susan?

SUSAN PAYNE:

Yeah. Thanks Phil. Hi. So, this is a bit nitpicking, I think. But in section 11, the first question is, "Are there any recommendation the working group has not considered?" And I kind of feel like anyone who's commenting and hasn't been in the weeds in this working group really doesn't know the answer to that.

I just wonder if we should phrase it somewhat differently, like, "Are there any other recommendations that you believe the working group should make?" or something along those lines because probably we did consider all sorts of things that haven't made it into a recommendation or a question. Thanks.

PHILIP CORWIN:

Yeah. Let me just comment personally. I think the revised language would be better. “Are there any recommendations that you believe the working group should consider making?” It’s really about what we should consider.

I think anyone who’s been on this working group for the—I hate to say it—four years since it began in March 2016 would be shocked to think that there’s anything we’ve missed. If anything, we’ve been over-inclusive in our consideration. Doesn’t mean that we’re perfect and there’s something worthwhile, in terms of recommendation or proposal, that we missed somehow. But in terms of the landscape of issues, this co-chair finds it hard to believe that we missed anything.

And let me say to folks like Phil Marano, I guess if someone wants to bypass the whole format here and just insert a traditional essay-type comment on the initial report, they can just paste that into section 11 as their comment. There’s nothing blocking that, if they object to the whole format and don’t want to participate in that exercise.

Let me call on Julie. She’s had her hand up a while.

JULIE HEDLUND:

Actually, Phil, I’m going to defer to Ariel first. And then, if you call on me after that, that would be wonderful. Thanks so much.

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ARIEL LIANG:

Thanks, Julie. I think Julie and I are probably going to respond to Phil's comment there. So, during the Monday call, the working group asked staff whether we can make the Word version of this Google Doc available and we certainly can. We also checked with the EPDP Team, why they only made the PDF version available. They said there was no discussion on that so that's why they defaulted to PDF. But we can certainly make the Word version available too, to facilitate commenting.

And to address Phil's comment or concern, if a business needs to review the responses before submitting, the Word version can facilitate that. And then, you should be able to draft your responses in the Word document and copy paste them over to the Google Doc after it has been approved. And so, hopefully that can address some of the concerns there. And back to Julie.

PHILIP CORWIN:

Thank you. And, Ariel, one question. Is there any length restriction on what can be inserted into a question 11 response? Or is it going to be something as long as a community member wants to submit, they can paste it in?

ARIEL LIANG:

Yes. That's a very good question, Phil, and I'm happy you brought this up. So, based on previous experiences, we know that for a long answer—text kind of answers—Google Forms can only take 2,000 characters. That's about 350 to 400 words. So, there is a character

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limitation there. And the workaround is if folks encounter this kind of problem, you can contact staff and we will manually copy-paste your answer into this Google Spreadsheet. Basically, it's to display all of the responses submitted. And if it goes over the character limit, we can accommodate that in that way.

But of course, the aim is that hopefully the commenters can be succinct because that 350 to 400 words is still a lot for each of these long answer texts. And we hope that will be sufficient.

PHILIP CORWIN:

All right. Lori Schulman, I'm noting her comment that the character limit should be explained upfront. It wasn't on the EPDP form. And again, I've already asked staff to get back to the working group with a revised and expanded introductory section for that. And please include that—not just include noting that there's a limit but instructing people on, if they want to submit something that goes beyond that limit, how to do so. So, that's all there right upfront in the document.

And I'll rely on staff to make those changes and to circulate it to the working group within the next day or two so that everybody has a chance to look it over and be satisfied that it addresses their concerns before we go forward with this, with publication next Wednesday the 18th. Julie, did you have further comment?

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JULIE HEDLUND:

Yeah. Thank you very much. First, I want to thank everyone here for your very helpful comments. We know some of you have had experience using this new standard form and some of you have not. It's helpful to hear both your experiences and ways that the system can be improved and the instructions made more clear. Yes. And so, thanks, particularly, to Lori, who's used the form and has some helpful suggestions for improvements. And thank you also to Phil Marano for your concerns.

We do want to try to find a balance with this form, between making it as clear as possible to people who have not used this form before or who may not have commented before and, in addition, to enable the accurate capturing of the comments because one thing that I do want to emphasize, and we did hear from other members of the community mentioning this in some of the constituency meetings yesterday. That is that there were concerns in the past, when all of the comments were freeform, that sometimes those comments were not characterized accurately.

And some of that has come from the fact that staff has to try to read a comment, and if it's not clear if it's support, or non-support, or a new idea, or some other categorization, to try to figure out how to categorize it. We will greatly reduce the possibility of inaccurately captured comments by using this form. It's not just a matter of expediency. It's a matter of making sure that we are capturing what the commenter is wanting to have captured and not mischaracterizing that comment. So, this form does indeed let us do that.

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And back to Phil Marano’s most recent comment, “I’m still unclear. Is it possible to attach an executed PDF letter?” No. That’s not possible. And we do still need to have the content come in through the form. But we do have the freeform option and also staff can assist. As we said, if the response is longer than what’s allowed by the character limit, we can assist in getting that content entered. So, one way or another, we can make sure that if the content comes and it’s not using the structure of the form, that those comments can still be submitted. So, everyone should be able to submit their comments as they wish and staff can assist with that.

One final point I’ll make is that in driving the timeline and the deadlines for the project change request that was just approved by the Council, the staff assumption was that we would use this form—that it would give us the expediency of being able to process the comments more quickly and get them ready for working group review. If we could not use this form, we would not meet those deadlines. And we already know that we can’t go back to the Council for another project change request.

So, we do ask for your assistance in making sure that we can make this form as successful as possible and clear to use. But it will very definitely ensure that we can meet the deadlines that we’ve now committed to for the Council. And thank you very much, again, for all your help.

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PHILIP CORWIN:

Yeah. And thank you for pointing out the time considerations, Julie. Again, speaking personally, I think this type of form is particularly appropriate for an initial report like the one we're about to publish, which literally has several dozen working group recommendations, individual member proposals and multiple questions to the community. This is not a working group that's putting out half a dozen recommendations. This is a very complex task we're engaged in and with a lot of different moving parts.

So, I think it personally makes sense to go in this direction. We're going to try it. I think it will be useful for most people but we're keeping the option of doing it the traditional way—of pasting in a long statement if that's the way a community member wants to comment on our work.

Did staff have additional aspects of the comment document you wanted to review before we wrap up this meeting?

ARIEL LIANG:

So, we don't have a lot of other additional comments. But I just wanted to note that Google Forms does have some limitation in terms of formatting. So, we're not able to bold, or change the font, or make things bigger as we wanted. I know that, Phil, you said maybe in the instruction part we can bold certain things to make them more obvious. But unfortunately, Google Forms doesn't give us those formatting options so we can't. But our hope is commenters can read through them in detail. And we will try to make it as clear and comprehensive as possible to facilitate that process.



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And another thing is that because this link is already distributed to the working group, we welcome folks to testing them and just try to play with it. And if you see any bug or particular errors, we welcome you to let staff know and we can fix it on our end. But to a certain point, we're going to stop testing and prepare for the official launch of this form.

PHILIP CORWIN: Ariel, let me ask a question. If the document does not allow for boldfaced type, I assume it would allow for a section to be in all caps.

ARIEL LIANG: Yes. That's a good suggestion. I saw that from Susan, too. So, we can certainly do that, too, just to make it more obvious. And we can make that adjustment.

PHILIP CORWIN: Right. Actually, I just noticed Susan's comment after I spoke but great minds thinking alike. So, let me ... Does that conclude our review of the comment document? I see Professor Tushnet's hand up. Rebecca, go ahead.

REBECCA TUSHNET: Sorry. I just wanted to put in ... The best research of which I'm aware says all caps are bad for comprehension and attention. So, I would try pretty much anything but that. Maybe bigger but it's pretty hard to get people to read stuff. I would suggest not all caps.

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PHILIP CORWIN: I don't know. When I'm reading a contract and there's a section in all caps, that's the one I always read very carefully. But I don't know who did that research. But it may be the only option we have, since we don't have the boldface option. But we'll take a look at ... And noting Greg Shatan's comment.

So, staff, is there anything else you wanted to point out about this document before I open up the floor to general questions and comments?

ARIEL LIANG: Thanks, Phil. I think we have concluded this discussion.

PHILIP CORWIN: Good. All right. Let me say this in my co-chair role. One, it's March 2020. This working group began to organize four years ago, in March 2016. So, at least this co-chair, and I'm presuming many of those who've been with us since the beginning, are delighted that we're finally about to publish an initial report. It's taken far too long.

And I think we're all aware that Council plans to change the charter for Phase 2 of this working group, which will begin late this year, focusing on review of the UDRP—the original ICANN consensus policy that's never been reviewed up to now—to make ... So, Phase 2 doesn't face a lot of the problems we've faced with a charter that was not very focused, that had duplicative and confusing questions, lack of data.

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That won't be an issue with UDRP. There's a tremendous amount of data.

But we've slogged through and we're at this point. For those who are not working group members, who are joining us today, just to let you know what's ahead, we're going to publish the report next week for seven weeks of comment. So, I believe the comment period will close April 29th. It'll be open March 18th to April 29th.

The working group, obviously, will not be having weekly calls during the comment period, though we may have at least one call to discuss the consensus call process so everyone reviews and is comfortable with how that's going to proceed when we start to consider the community feedback, and decide which of these recommendations and proposals need to be changed due the community feedback, and answer the questions, and which are going to get past that high bar of reaching consensus.

If there's a lot of comment in early on, we may have a meeting to get staff feedback on what's come in so far and their analysis of it. But my own view is that with an initial report this long and this complex, we're probably likely to see most of the comments coming in at the very end of the comment period. And I see your hand up, Julie. I'll get to you in moment.

And so, we have ... Under our change request, we have until mid-October to complete our work. But our working plan is actually going to work backwards from mid-September because we've learned in the past that when we hit obstacles, and we may well hit obstacles in

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determining consensus, that things take longer than projected. So, we're going to work back from September in forming a timeline so that we have an extra four weeks if we run past that.

And we are planning, when we come back together in late April or May, for at least May or June, to meet twice a week for 90-minute sessions to make a lot of progress as quickly as possible to assure that we're going to meet our deadline because Council has been quite clear that there will be no further extensions and we wouldn't want four plus years of work to go to waste because we're a few weeks short of meeting a final deadline.

With that, I'm going to call on Julie and then I'm going to open the floor to any questions or comments from working group members or visitors before we wrap up. Julie?

JULIE HEDLUND:

Thank you very much, Phil. I just wanted to note that staff will be working closely with the co-chairs to develop a very detailed work plan, in order to ensure that we can meet the earlier goal of a mid-September submission of the final report. So, we'll have some meetings, in this intervening period, with the co-chairs to develop that plan and, of course, present it to the working group for review as well. Thank you.

PHILIP CORWIN:

Yeah. Thanks for noting that, Julie. The co-chairs are on many calls with staff, planning our work. And, of course, we're going to be doing

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that. We are very serious about wrapping up this work this year and meeting our timeline. And if we can deliver our final report in mid-September, that would be fantastic.

So, let me stop now and see if there's any questions or comments for anybody on this call, in this meeting, before we wrap up.

JULIE HEDLUND:

Phil, just noting Griffin's question in the chat. Right now, we have nothing on the agenda for tomorrow's session. So, the staff assumption is that we would be able to not hold that session and that if anybody has any comments on the changes we're making to the public comment tool and to the actions today, we'll get that around and circulated on the list and we'll welcome comments on the list. But we otherwise don't see the need to use the meeting tomorrow. But we'll, of course, defer to the co-chairs on that.

And Justine is asking when we expect to reconvene after 27 April. And again, defer to the co-chairs. But I would expect that we would resume our regularly-scheduled meetings on the closest Wednesday to that date and I'm not sure ... I think there will need to be time for staff to compile the public comments. So, we'll have to factor that time in and come back to you with an exact date, Justine, once we've been able to do that.

PHILIP CORWIN:

Yeah. And on that, Julie, if the comment period closes Wednesday, April 29th, the next Wednesday would be May 6th. The co-chairs will

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consult with staff and see if we're ready to meet then or whether we have to give things another week to get a better grasp of the community comments.

As I said, my personal expectation is that, given the complexity of this report and the length of the comment document, we'll probably see a deluge of comments being submitted in the last two or three days. And we're not going to get a whole lot, probably, before that.

BRIAN Beckham was with us for a while. I see he's dropped off. Probably had to go back to other ICANN meeting work, probably with the GAC. And Kathy's not with us. But the co-chairs understood that if we wrapped up our work today, we wouldn't be using tomorrow's meeting. So, I think everyone should assume that tomorrow's meeting is cancelled. There's no reason to hold that meeting. We've finished our work. And I would hope that staff would—whatever handles the online schedule—would change that listing for tomorrow and note that the meeting is cancelled so that people don't go to it and wonder why there's no meeting because there won't be.

So, with that, this is the final chance for anyone else to comment. Staff will be getting back to us later today with final revisions of the text we discussed today for feedback on the working group email list. Maybe not today but in the next day or two, they'll get back with a revised introduction of the comment document that takes into account the many constructive comments we received today, both verbally and in chat.

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And this working group will adjourn. Subject to the call of the co-chairs, we don't anticipate regular working group meetings resuming until May. But if there's a need to call the working group back together prior to that, during the comment period, we'll give everybody sufficient notice.

And aside from that, please, everyone, stay safe out there. I don't need to get into detail of what's going on in the world right now but it's the reason we're not in Cancun and we want everybody with us through the end of this process and for Phase 2. So, please stay safe. Thank you. And with that, we're adjourned.

MICHELLE DESMYTER: Thank you so much, Phil. And thank you, everyone.

**[END OF TRANSCRIPTION]**