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MARRAKECH – GNSO Review of all Rights Protection Mechanisms in gTLDs (Session 2 of 4)

Tuesday, June 25, 2019 – 13:00 to 15:00 WET

ICANN65 | Marrakech, Morocco

JULIE HEDLUND:

Welcome, everyone. This is going to be the RPMs PDP Working Group Sunrise Sub-team working session. It's going to start in a few minutes, just as we're waiting for more people to join. I ask that sub-team members should take seats at the table, and working group members should also, although, if the table were to get crowded, which I think is not likely, precedence would go to sub-team members. Thank you all, and thank you also in the Zoom room. We'll start in a few minutes. Thank you.

Again, welcome, everyone, both remotely and here in the room. This is the RPMs PDP Working Group working session for the Sunrise Sub-team. We'll be starting momentarily. Let me ask if people would finish up their conversations. Sub-team members and working group members should take seats around the table. Other participants, please give priority to sub-team members and working group members around the table. We'll be starting momentarily. Thank you.

Again, thank you, everyone, for joining. We're going to start this RPMs PDP Working Group working session for the Sunrise Sub-team in about five minutes. We are delaying a little bit to let

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people to return from lunch, those who are physically here in Marrakech, since most of the lunch places didn't open up early enough for people to get food very quickly. Thank you all, and I'll let you know when we're starting.

Welcome, everyone. We'll start in three minutes, so we'll ask you to finish up your conversations and take your seats. Looks like we've got pretty much all the sub-team members or people who are sub-team members up at the table. That's great. We'll start at quarter after, also for those who are joining us remotely. Thank you very much.

Welcome, everyone. This is Julie Hedlund from ICANN staff. This is the Rights Protection Mechanisms PDP Working Group working session for the Sunrise Sub-team, here on Tuesday, the 25<sup>th</sup> of June. This session will run until 15:00 local time. The session is being recorded as well. Thank you all for joining, both here in the room and remotely in the Zoom room. We've put the agenda also in the Zoom room for you all to reference. Just as a reminder, we're going to be covering Questions 8, 12, Preamble, 1, 2, 3, and 4, to the extent that we are able today.

Let me just go ahead and recognize in the room that the meeting will be Co-Chaired by Greg Shatan, who is here physically in Marrakech, and by David McAuley, who is also joining us but not physically. He'll be in Virginia in the U.S. Welcome to both of you.

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Also, from the full working group, we have Kathy Kleiman as a Co-Chair and Brian Beckham. Remotely, we have Phil Corwin. Welcome to you. Welcome to all the sub-team members. I will turn things over to Greg. Take it away.

GREG SHATAN:

Thank you, Julie, for handing it over. I'd also like to welcome our distinguished Board members, of course. We're doing H.O.s this week. In any case, let's just jump right into it. We are starting with Question 8. We have the document on the screen. That is the live Google Doc on the screen, so we are now all collaborators in the positive sense of the word in getting this down, rather than looking at the static status check document.

Question 8 dealt with limited registration periods, approved launch programs, and qualified launch programs. I think that what we need to focus on in this area is really the suggested language from Kristine Dorrain and Maxim Alzoba, who luckily are both at the table with us and directly opposite each other for some reason. But that's very good gatekeepers.

That is the language that is in the right-hand column of the document: our proposed questions. The reason I say we need to go to the proposed questions is that, for the proposed answers we have at this point that we were unable to conclude on whether any of these programs were need of review vis-à-vis the sunrise

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period, we just didn't have enough information: data, anecdotes, evidence, stuff. Whatever you want to call it, we didn't have it. We had a limited amount, but we need more.

The suggested language from Kristine and Maxim on the right-hand side – I'll read it not too quickly for those who don't listen to New Yorkers – is, "The RPMs WG has received limited feedback that the rules for ALP and QLP do not integrate smoothly with the concept of sunrise. Notably" – and there's a footnote, which says, "For instance, some geoTLDs struggle to ensure that words needed for operation of their TLD – i.e., required by the governments that approve them – were all able to be allocated or reserved for later registration before sunrise. These words may have been recorded in the TMCH but needed to be reserved to the governments. One of example is "police," which is both a word for local law enforcement and a band." There's a staff note that, actually, the band's trademark is The Police and not "police," so we're going to have to stop using that example. But I'm sure we can think of another one.

In any case, maybe NYPD Blue – I don't know. Anyway, I date myself. "Notably, many registry operators did not use the ALP or QLP options, and only a few used LRPs. In order to make a recommendation on this question, we are seeking the following guidance from registry operators. One, if a registry operator did not attempt an ALP, QLP, or LRP, was the reason for not taking

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advantage of those programs related to how they integrate with sunrise? Were you able to achieve your goals in a different way, such as by combining any or all of these? Two, if a registry operator did attempt an ALP, QLP, LRP, or a combination but didn't successfully use any, was the reason you did not take advantage of those programs related to how they integrate with sunrise? Were you able to achieve your goals in a different way? Three, if a registry operator used an ALP, QLP, LRP, or a combination, did you experience any unanticipated trouble with integrating the sunrise period into your launch? Specifically, were you able to allocate all of the names you needed to allocate under those programs before the sunrise period?"

There's also a footnote to #2, which says, "For instance, some registry operators may have used the QLP100 RA3.2, plus IDN variants, in combination with registry reserve names they needed. Did you do this?" Maybe that question should not be in a footnote. "If so, were you able to reserve or allocate all the names you needed to?"

So that is the question or the questions. I will open the floor.

UNIDENTIFIED FEMALE: There's more [inaudible].

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GREG SHATAN: There's more to that? Oh, my. I will scroll down. Oh, no. I've got it.

UNIDENTIFIED FEMALE: [Emergency printer]

GREG SHATAN: “Four, for each issue you identify above, please also include a suggested mitigation path. What do you suggest the working group consider to help alleviate the pain points and make those programs more useful and functional while still respecting the trademark protection goals of the sunrise program? How important is it to make changes to these programs before another round? That is, are these issues worth holding up another round for? Or are the workarounds tolerable? Five, for non-registry operators, did you experience struggles with the way ALP, QLP, or LRPs or a combination integrated with sunrise, either as a registrar, as a brand owner, or as a domain name registrant?”

So those are the five questions with sub-questions. This is an integrated proposed question for all of Q8 A, B, and C. I'll take the queue. Do we have a queue?

UNIDENTIFIED FEMALE: Well, we've got Paul.

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GREG SHATAN: We have a Paul. Paul, please speak.

PAUL MCGRADY: Thanks. I have to leave in three or four minutes to go to the GAC/IGO/NGO/GNSO Council small group. I'm trying to work that out. But I wanted to show my face this week and tell you guys that the Council thanks you for all the hard work. We know that, just listening to Greg's introduction, you guys are definitely in the weeds. You're getting it done, and we're thankful. Have a good meeting. Bye now.

GREG SHATAN: Thank you, Paul. Kathy, are you in the queue? I think you're next in the queue.

KATHY KLEIMAN: Cool. I have a question about the footnote, just because I know lawyers read footnotes and real people tend not to. Would there be any problem, Kristine and Maxim, putting it into a parentheses? Since it's not going to be in a column, it'll probably be written across the page. Any problem moving into a parentheses? Because it's an important footnote.

KRISTINE DORRAIN: Yeah, I think that would be fine.

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GREG SHATAN: Griffin, please go ahead.

GRIFFIN BARNETT: Thanks. On a related note, I think the second footnote that you mentioned could probably just be tacked on in the primary portion of the text as second sentence or two, or whatever it was, instead of a footnote as well.

GREG SHATAN: Thank you. That’s a good note, especially since that one actually had questions in it.

Maxim, please go ahead.

MAXIM ALZOBA: Actually, in the example, we could change “the police” to just “police” because, in the trademark database, you can see a couple of thousand trademarks of “police” in different goods and services.

GREG SHATAN: So you’re saying that there’s somebody out there who owns the trademark for just “police”? I had not found that. The band, I think, only has “The Police.”

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MAXIM ALZOBA: No. I mean it doesn't have to be a band. It's just the word "police."  
That's it. It doesn't matter to whom the word goes, either to a [shade] maker from Italy or to the band.

GREG SHATAN: Okay. If you could just send an example because I'm curious as to whether somebody was allowed to do that.

MAXIM ALZOBA: Okay.

UNIDENTIFIED FEMALE: This is minutiae, but from a trademark law perspective, adding "the" or not adding "the" is immaterial. I know from a DNS perspective it is because it would be thepolice.whatever. But just generally speaking, from a trademark law perspective, adding that article makes zero legal difference. If this—

GREG SHATAN: But in the TMCH, would you be able to register "police" if your TMCH registration was the dot ... If your TMCH registration was .police, you would not be able to register "police" in sunrise. That's the point.

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UNIDENTIFIED FEMALE: Right. Correct. Okay, I'm sorry. Yeah, I missed the point. All right, thanks.

GREG SHATAN: The point is that it's not an example of a ...

UNIDENTIFIED FEMALE: Got it. And for TMCH, eligible—

GREG SHATAN: Yeah. "The Police" is not an example of the word "police" being taken out due to a sunrise problem.

UNIDENTIFIED FEMALE: Got it.

GREG SHATAN: At least for the band The Police.

UNIDENTIFIED FEMALE: I missed a step in the logic. Thank you.

GREG SHATAN: Yes. Kathy, please, go ahead.

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KETHY KLEIMAN: I have just searched the USPTO database, and there’s a “police” registered in International Classification 9 for batteries.

GREG SHATAN: Thank you for your energy in finding the battery registration. You’re a sparkplug of this group.

Let’s get back to business.

UNIDENTIFIED FEMALE: [inaudible] like in ten minutes.

GREG SHATAN: Okay. Let’s talk about this language. We’ve agreed to bring the footnotes up. We have found another registration to cover the “police” is, or to cover police: the issue. So let’s look at the rest of this language to see if it’s ready for primetime.

Kathy, is that an old hand?

Susan Payne, please go ahead.

SUSAN PAYNE: Generally speaking, I love the language. I think it’s great. I really appreciate Maxim and Kristine having worked on it. The only

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thing I would say – this is just based on our experience when we’ve done other attempts to gather data – is that, every time we lump the QLP, ALP, and whatever the other one is together, people answer really vaguely without identifying what they’re talking about. That’s one of the reasons we don’t have any data: people have identified some issues that they have, but they’ve been extremely vague about what it was an issue with. I think I’m probably on the record of saying what the issue was with is X, and there’s never been an issue with the LRP. But other people are saying, “Well, we don’t know that because it’s [inaudible].”

So that’s a really long-winded of just saying maybe we have to – maybe it already does; I haven’t read the language in detail – say to them, “Please be specific about which one of these you’re talking about.”

GREG SHATAN:

I have Maxim and then Kristine.

MAXIM ALZOBA:

I’m sure that registries, if we ask the registry constituency, are going to be quite precise in the language because [inaudible]. There is a group in place which will be able to deliver the text which [will announce what was ALP and QLP were about].

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To say more, there is a geoTLDs association, which are those who used or might have used those items. Because some of those items were limited to geoTLDs. Thanks.

GREG SHATAN: Thanks. Kristine?

KRISTINE DORRAIN: Thanks. Two points. I want to support both things. I agree completely with Maxim. A) I'm probably going to draft the comments. Let's be honest. If you're on the Registry Stakeholder Group, you'll know that. So we'll be very specific, and we will definitely bring in the geos.

I think Susan's not wrong. I'm always in favor of adding – I think we talked about, for the claims – that preamble that specifically adds that precise detail, like, “We want you to be very specific about which mechanisms you used and what the shortcomings of each of those mechanisms were.” So it's not just that we lump them all in and had a problem. Each one call out. That's true for brand owners and registrars. If registrars had no problems interacting with LRPs, as I think the answer is going to be, then we want to know that the answer is specific to one thing. If brand owners ran into the problems specifically with QLPs but not LRPs,

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I think we do want everybody to be super-specific about what it is.

So I would agree with both, and I think we can do both. Thanks.

GREG SHATAN:

Thank you, Kristine. I'd suggest, at the end of the chapeau text, a note that says something along the lines of what you said, which is, "Please be specific as to whether you're dealing with a" – oh, and there's ... yeah, okay. I've got the Google Doc up myself ... okay, that's great. That helps.

Any other comments on this language? As I was reading it, I find an "a" where there should be an "an," or at least ...

KRISTINE DORRAIN:

Greg, that was #3.

GREG SHATAN:

Right. It should be, "If a registry operator used an ALP."

UNIDENTIFIED FEMALE:

Got it.

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GREG SHATAN: Also, to really nitpick, the space before “use” in #2 is underlined. My first job in law was as a legal proofreader one summer during college. It makes me a lot of fun at parties.

Anything else on this? I think, as I said, this was well-drafted by Kristine and Maxim, so we’re really not finding too many issues. It’s mostly ... It’s nice to be able to work on language that starts at a high base. Any other comments on 8?

Seeing none – and staff is ready to move along to Question 12?

UNIDENTIFIED FEMALE: Do we want to check [inaudible]?

GREG SHATAN: Well, we can check the answers. They were not thrilling. For Question 8A, “Are limited registration periods in need of review vis-à-vis the sunrise period, approved launch programs, qualified launch programs? Proposed answer: The sub-team discussed this question but was unable to conclude whether the limited registration periods, approved launch programs, or qualified launch programs are in need of review.”

Question 8B. “Are the ALP and QLP periods in need of review? Proposed answer: The sub-team discussed this question but was

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unable to conclude whether ALP and QLP periods are in need of review.”

Question 8C. “What aspects of the LRP are in need of review?  
Proposed answer: “The sub-team discussed this question but was unable to conclude what aspects of the LRP are in need of review.”

That is all. Any comments on these? They seem to be fairly self-sufficient, if not illuminating. It certainly points out the need for questions to be asked.

We’re going a little bit out of order, so our next question is 12. Then we’re looping back to the preamble and going on the march.

Let the record reflect that the doors don’t seem to be closing.

UNIDENTIFIED FEMALE: There’s a trick. You can do it. [inaudible]

GREG SHATAN: So let’s look at Question 12. Question 12A – this one thankfully only has two parts – “Should sunrise registrations have priority over other registrations under specialized gTLDs? Proposed answer: The sub-team discussed this question but was unable to conclude whether sunrise registrations should have priority over other registrations under specialized gTLDs.”

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Question 12B. “Should there be a different rule for some registries, such as certain types of specialized gTLDs – e.g., community or geoTLDs – based on their published registration/eligibility policies? Examples include police.paris and police.nyc for geoTLDs, and windows.construction for specialized gTLDs. Proposed answer: The sub-team discussed this question but was unable to conclude whether there should be a different rule for some registries, such as certain types of specialized gTLDs, based on their published registration/eligibility policies.”

So that’s what we had. Basically, a lot like the previous one. We really couldn’t come to a decision. Not necessarily ruling out a decision, but more needing information. Once again, Kristine and Maxim rode to the rescue and drafted us some language to look at that again is in the right-hand column. We will read through that together. I mean, I’ll read and you’ll listen. This is not Passover.

“The RPMs Working Group has received information that the 2012 Applicant Guidebook did not foresee that some gTLD, specifically geoTLDs but perhaps others, might need more than 100 domain names to allocate prior to the launch of the TLD and prior to sunrise. For geoTLDs, one example is the potential need to register city, country, office, official, etc., websites in advance of sunrise; e.g., the business of the TLD may make it critical that

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police.geo is allocated to the police department and not the battery. We have limited information about the impact of this situation and do not know how many and to what extent registry operators were affected. If a registry operator had/has a business model that was in some way restrained by the 100-name limit for names registries can reserve under RA3.2, please share your experience and suggested path to improvement. What was your workaround, if any? Two, if the working group were to identify this as a key concern that required changes to way” – that should be “the way” – “the sunrise period operates, are there other TLDs besides geoTLDs that did or will encounter the same problem? What suggestions do you have for workarounds or solutions that will not diminish the protections available from the sunrise period balanced with the need to finish this work in a timely manner? Three, did any registry operators intend to offer a special sunrise before the regular sunrise that targeted local trademark owners? If so, would you have validated the marks in some way? How would you have resolved conflict between trademark holders that got their domains during the first sunrise and trademark holders who had an identical trademark in the TMCH that was registered prior to sunrise?”

We will take a queue.

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I see a coffee cup from David McAuley and a coffee cup from Maxim Alzoba, but he's in the room. And I see a hand from Griffin Barnett.

**GRIFFIN BARNETT:** Thanks, Greg. I guess the one thing that perhaps could use some clarification in the introductory language to this set of questions is it seems to refer specifically to the ability to allocate 100 names through QLP but it doesn't seem to capture the ability to register more names in that or allocate more names in that through an ALP. So I wonder if there might be a way of making sure the reference to the ALP is also captured in that language.

**GREG SHATAN:** Maxim, go ahead.

**MAXIM ALZOBA:** Actually, with ALP, it's the only registry which managed to use it. They wanted to share with us their experience, but, unfortunately, as I understand it, it's not finished yet. I will try to talk to CORE with .madrid and might update us later. But not yet. So asking about ALP now is not very sensible because basically there's only party to ask.

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GREG SHATAN: Griffin?

GRIFFIN BARNETT: Just to respond quickly, but there were multiple parties that tried to use ALP, right? And maybe only one or something that could do it successfully. I think it would still be helpful to probably reference that that ability existed, at least in theory. I think it would be helpful to ask for input from those registries that attempted to use it, even if they weren't ultimately successful.

GREG SHATAN: Kristine Dorrain?

KRISTINE DORRAIN: Thank you. That's what we're attempting to do, sort of. When we wrote those, 9 and 12 were together, so it ran together. We're trying to figure out what the hang-ups were between how the ALP and QLP interacted with sunrise.

To Maxim's point, nobody has completed an ALP, and only one just got approved. So we don't have any data. We'll hopefully get that one data point from CORE. But we do want to hear, so maybe your point is – I don't know if we want to reference back Question 9 because it's all one big litany of questions. Maxim maybe has more to add on to that. They're all interrelated.

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GREG SHATAN: Maxim?

MAXIM ALZOBA: The answers from .core about other attempts were documented during one of our face-to-face meetings and were referenced a few times in our e-mails. Basically, if we remove all language which is not swear words, we will have explanations of the only party that tried what happened in the other 9 or 8 examples.

GREG SHATAN: Kristine?

KRISTINE DORRAIN: I do take that point. I think we need to direct the respondents to consider questions 9 and 12 together. I don't know – maybe staff can figure that out – what order, if we're limited, if we're forced to answer these in the order they are in the table. But if we can, I would love to juxtapose 9 and 12 so that, when people are answering the ALP/QLP questions, they're doing those as one big chunk. I think that would get to your point.

JULIE HEDLUND: Just to answer that question and just to point out a point of clarification, this table is really just for reporting to the working

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group. I will keep the questions in their order because it just makes sense for the charter questions. But for putting the questions before the community for public comment, we certainly can juxtapose the questions together. So we can do 9 and 12 together. There's no reason we can't. Or 8 and 12. Or whatever.

GREG SHATAN:

I might suggest that, even in this one, it might be good to have a note at the top to say that this question follows from the question I response to Charter Question 8. Then I'll read through.

One comment that I had was that Question 1 at least doesn't reference sunrise in any way. I don't know if it should be limited to sunrise or, in getting to the other questions, we have to ask it here even if it's not really a sunrise question. This is more just about the 100-name limit at all.

I've got Kristine and Kathy.

KRISTINE DORRAIN:

I'll propose a friendly amendment to my own language. I think we can just say that was in some way restrained by the 100-name pre-sunrise limit. [And then B?] I think that's good.

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GREG SHATAN: Thank you. Ethan Hawke and Julie Delpy thank you as well. Kathy, please?

Susan, are you on a more direct point within this?

SUSAN PAYNE: [Yes].

GREG SHATAN: Okay.

SUSAN PAYNE: It might just be me, but it seems like we maybe are missing a sentence, where the text is in the Google Doc, because it says, “Some TLDs, specifically geoTLDs but perhaps others, might need more than 100 domain names to allocate prior to the ...” I think it’s meant to say “sunrise,” but it says, “prior to the geoTLD-comma- one example.”

[KRISTINE DORRAIN]: Mine says, “prior to sunrise.”

[GREG SHATAN]: Mine says, “launch of TLDs.”

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SUSAN PAYNE: Then maybe it's how it's displaying.

[GREG SHATAN]: [inaudible]

[KRISTINE DORRAIN]: Yeah. "launch of the TLD prior to sunrise."

SUSAN PAYNE: It must be how it's displaying for me then.

[KRISTINE DORRAIN]: Oh, okay.

SUSAN PAYNE: Okay. Scrap that then. That was where "sunrise" was, basically, which is why I couldn't see it.

GREG SHATAN: That's still in the chapeau text. I was referring to Question 1 specifically, but thank you.

Kathy Kleiman?

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KATHY KLEIMAN:

I like your French [inaudible]. First quick comment is also a recommendation to move all three footnotes into the text in parentheses so that people can read it very easily. I think that'll look fine when we get to go all the way across a page.

My question had to do with #3, and it's a question for Kristine and Maxim. Are we asking about past or future? Are we asking if registry operators offered in the past a special sunrise before the regular sunrise for local trademark owners? Or are we asking if they want to offer one? The follow-up would be, are we asking how they would resolve the conflicts? Or – okay.

KRISTINE DORRAIN:

Before the Applicant Guidebook was written, registry operators started to work on their future business plans, and people had great and lofty ideas in the type of sunrise they would offer, what kind of TLDs they would run, who would be allowed to register those domain names, and what order they would be allowed to register. Some people had put together pretty complex strategies.

Then the Applicant Guidebook and the IRT and the STI came along and said, “No. There's going to be a global sunrise. There's going to be these ten QLP names. Everybody is going to do it the same.” So people had to claw back their business plans and say, “Oh, dang! I had these plans for my TLD and now I can't.”

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For instance, let's pick on geos again. If the geos had gone to their local government – we'll pick on .nyc – and .nyc had said, “Yeah, we'll sanction your TLD. We'll sign off. But there's these 2,000 domain names you need to pre-register and block. They're going to be all our city officials and our mayor's offices and the boroughs” – whatever it was – now the .nyc people come to the application period and they've got 100 names. How are they going to do this?

What we're getting at with this question is, but for the intervention of the rules in the original guidebook, what would you have done differently? What would your sunrise have looked at? Whose plans got screwed up? Could we possibly fix that for you here by backtracking some of those provisions? That's where this language came from. I'll let Maxim elaborate as well because we had some discussion about this in our e-mail.

MAXIM ALZOBA:

Given the long time which is required by local governments and municipal entities to take a decision, even if they are fully informed at one moment of time, given the annual planning cycle, on average it took 1.5 years because everything was extremely fast at the city level because, before getting [a] letter, you had to have lots of conversations with the mayor's office, maybe with the mayor, ministers, etc. That's why it could be

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language saying, “What were your initial plans?” [like to include work initial to underline that. “We’re asking about the plans, which were changed.”] I don’t think we need to go too deep into the details because the sad story is per-TLD. We don’t need it. We need something in common. So what were your initial plans? How did they change due to these? How would you resolve the conflicts before the rights came into force? So it might be adding one word [initially that will help it be understood.]

GREG SHATAN:

Griffin?

GRIFFIN BARNETT:

I’m still a little confused maybe about this idea that registries only had the ability to allocate up to 100 names pre-sunrise. I understand in practice that that ultimately is how things played out, but in theory at least, the approved launch program didn’t limit the number of names that you could allocate pre-sunrise. Again, I understand there were issues in actually getting these programs approved and using them, so I understand there’s a practical effect. But in the way that the approval launch program is at least written in the policy or in the Trademark Clearinghouse requirements were defined, there was no such limitation. So I guess that’s a point of perhaps clarification because I feel like I keep hearing that plans had to change because there was only

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this QLP mechanism that allowed for 100, and you [can] go beyond that.

GREG SHATAN: Kristine and then Susan and then Maxim.

KRISTINE DORRAIN: I understand your point that the ALP was a theoretically-available tool, but we're really trying to get at the experiences that people had. So I think, if you looked at any registry operator and asked, "So why didn't use the ALP?" they would just shake their head and say—

UNIDENTIFIED MALE: [inaudible]

KRISTINE DORRAIN: Because they didn't – yeah. So I think we want to gather data about the fact that it didn't work and more specifically, I think, to your point, why it didn't work because what we really want ideally is to have some suggestions for fixing it. So it would be good.

I think Maxim and I are both open to friendly additional language that would get to people's points, but we're really, I think, trying to uncover ultimately the underlying question: "Where are the pain points? Tell us about those."

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GREG SHATAN: Susan?

SUSAN PAYNE: Hi. I was really going to say that. Also – I haven't looked this up, so I may be speaking incorrectly – I have a feeling that the provision related to the ALP was maybe not even finalized when the first TLDs launched. But I would need to double-check if that was correct or not.

I think, yeah, we need precision when we're asking these question. I think there's a theoretical ALP. What we may be pulling out is not that the policy is wrong but that the manner in which those requests for an ALP were assessed maybe didn't meet the needs of the people who were seeking them.

GREG SHATAN: Maxim?

MAXIM ALZOBA: On the level of stories, in our geoTLDs in Moscow, [Moscow], when we did initial risk analysis, we realized that there were no SLAs, basically, and no transparency in the way decisions are going to be made on the other side, given that, when you're talking to officials, you have to deliver things you promise by the date. When

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the process was effectively extendable to any date, it wasn't feasible to even promise something. So that was the reason: lack of transparency and no SLAs. That's why we decided not even to try it. Thanks.

GREG SHATAN: Thanks. Griffin?

GRIFFIN BARNETT: Sorry. Just one last quick comment. I completely agree. I think we're in agreement that we are trying to suss out information about why the ALP didn't work as maybe it could or should have. And I agree: transparency and some of the other things you just mentioned speak to perhaps the implementation by ICANN of what could have been a program that worked but, for some reasons that we're trying to determine, didn't. Just as long as that's captured somehow, I think we're all getting to the same questions. Thanks.

GREG SHATAN: I have a suggestion, perhaps. Where we refer to the 100 domain names to allocate, maybe say, "100 domain names available under the QLP to allocate," and then we can drop a footnote that says that we recognize that technically more were available

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under ALP but it was not functionally available, or something along those lines. I don't know.

Kristine?

KRISTINE DORRAIN: I just put some suggested text in the doc. It says, "If a registry operator had or has a business model that was in some way restrained by the 100-name pre-sunrise limit for names registries can reserve under RA 3.2 or the practical problems with the ALP, please share you experiences." Does that ...

[GREG SHATAN]: I think that's fine.

KRISTINE DORRAIN: Okay. Maxim, are you cool with that?

GREG SHATAN: Do we need to see the language before we move on? It's up there if you can see it on the screen. Thank you for flying in, Kristine, to do that.

Any other questions? Comments? I think there may be some line editing needed in a couple of places here but really non-substantive. We don't need to do that as a crowd. I don't know if

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we want to have any kind of question for others besides registry operators. Of course, everybody is free to comment on every part of our preliminary report, so I don't know that we need a specific question beyond those that we have.

Any other points on Question 12?

Kathy?

**KATHY KLEIMAN:** Actually, a quick question about the next thing. The next thing is Table 3. I was wondering if that's anywhere in our agenda, to talk about Table 3: the summary of individual proposals review.

**GREG SHATAN:** I'll turn to staff, who prepared the agendas.

**ARIEL LIANG:** For this status check, Table 3 would have a really high-level summary, where the conclusion [or] Co-Chairs determination of whether the proposal got wide support or not. Then, in the summary table, we will include the actual deliberation discussion of these individual proposals. If there is a pros and cons, then we will try to summarize these opinions. For the status check document, we only have this very high-level notes [on] whether it received wide support or not. You can probably see that most/the

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majority [doesn't], but then, for Proposal #11, part of this proposal received some support. So we noted that.

GREG SHATAN:

At this point, we're going to loop around to the preamble and march through, maybe even hitting – I guess we probably won't hit 8 and 12 again, but I think at the end we can hit the table.

David McAuley, who is the Co-Chair remotely, is going to chair the preamble question. We in the room will help manage the queue. Thank you.

DAVID MCAULEY:

Thanks, Greg. I hope you can hear me there in the room.

GREG SHATAN:

Loud and clear, David.

DAVID MCAULEY:

Thank you, Greg. Thank you very much for kindly managing the queue. I can't see the hands in the room, obviously. Anyway, the preamble question has six parts: A through F. Logically, I'm going to divide it as follows. I think we'll tackle questions A and B, then we'll turn to C, and then we will turn to D through F. I will go through and just list what Questions A and B are and then open

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the queue. I'll also indicate the proposed questions that we have for community input.

Preamble Question (Q) A goes to the essence our work. Is the sunrise period serving its intended purpose? The proposed answer we have at this point is that the sub-team disagreed on whether the sunrise period is serving its intended purpose. There are two primary options. One, yes, it is serving its intended purpose, and, two, no, it's not serving its intended purpose.

With respect to A, we have a proposed question for community input as follows. The sub-team recommends that the public comment be sought on whether the sunrise period is serving its intended purposes. Public commenters should provide evidence and analysis to support their views. The sub-team noted that the intended purpose for sunrise service is as follows. Sunrise services allow trademark holders an advanced opportunity to register domain names corresponding to their marks before names are generally available to the public.

Preamble Question B is the reverse. Is sunrise having unintended effects? Our proposed answer is the sub-team had widely diverging opinions on whether the sunrise period is having unintended effects. In our proposed question, we recommend that public comment be sought on whether the sunrise period is

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having unintended effects. Public commenters should provide evidence and analysis to support their views.

We can open a queue on these two fundamental points.

GREG SHATAN: I have Kristine, followed by Susan.

KRISTINE DORRAIN: Hi. Thank you. I have two primary questions. The first one is that I know the way we did this in claims was to just say, “We disagreed. Carry on. Discuss.” Without extemporary ... you know what I’m talking about: the side chatter over here in Column 3. So I’m a little bit concerned about providing yes and no answers for people because that’s theoretically what they’re going to do when they respond. So that’s my first point: can we trim the commentary and just say we disagree?

I want to back up further for a second because I’m not entirely sure we disagree. If you look, in the third column, the second sentence: “The sub-team noted that the intended purpose for sunrise services is as follows. Sunrise services allow trademark owners an advanced opportunity to register domain names corresponding to their marks before names are generally available to the public,” Column 3 does not say that we differ on that. I don’t think we differ on that, but maybe we do. If we do,

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you probably should raise your hand. Because, if we agree on that, then I'm not sure how we can say we don't agree on whether it's serving its intended purpose, because that's what sunrise is doing.

So I'm a little bit concerned on two fronts. One is I think we're asking for more than we need, but I'm not entirely sure there's disagreement on the purpose. So that's my discussion that I was hoping to have. Thank you.

GREG SHATAN: Thank you, Kristine. Susan?

SUSAN PAYNE: I think I'm agreeing with Kristine. I think we should have that discussion about whether we actually are in disagreement. I guess I was just going to say I'm concerned that this is basically the fundamental question this working group is supposed to be answering. If we are three-and-a-half years in and we've done questions to the community and asked for input and staff had previously done their report and gathered input and we've done surveys – if we've done all of that – and we feel like we can't answer this question, then why on earth are we going to ask yet again for the community? Because all we will get a ton of people from one side going, "Yes, it's serving its intended purpose," and

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a ton of people on the other side going, “No, it’s not serving its intended purpose.” We already know there are those opinions. We’ve got them in the room here and we’ve got them in the wider working group. What the hell is the point?

GREG SHATAN:

Thank you, Susan. I’m going to put myself in the queue, followed by Griffin Barnett. I’ll just note that it’s been a long time since we dealt with the preamble question. I think we’re matured as a working group or sub-team, and we’ve also matured in the way we’re answering question and we’re where choosing to ask further questions. So I think, to some extent, this could be updated. I don’t know that there’d be broad support for this answer, regardless of your view of sunrise. At least that’s my view. So I think that’s why it looks the way it is. It’s because we’ve finally come back around to it after a long trip.

I’ve got Griffin followed by Kathy.

GRIFFIN BARNETT:

I think Kristine raises a very good point. I think what’s captured in the proposed answer in the first column misses the mark in terms of what the question is actually asking.

I think, to Kristine’s point, as encapsulated in the first column, we all agree that the intended purpose of sunrise is to give trademark

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owners and opportunity before the general public to register domain names matching their marks. But in the proposed answer, we talk about schools of thought about ... it really speaks more to whether there's agreement on whether that purpose is legitimate as opposed to whether it's meeting its intended purpose. So it's really answering a completely different question than we were asked to answer.

GREG SHATAN:

Before I go to Kathy, I'll just note that the sentence that Kristine read out about what the stated purpose of the sunrise is was not in this document until the very latest turn. So the question was being asked without any reference to an actual stated purpose, at least that was read out into the document.

Kathy?

KATHY KLEIMAN:

I hope you don't mind pushing it a little farther because I think you're right. We're coming back to the preamble, which, on suggestion of the working group, was pushed to the end because it's umbrella questions, to use a phrase from Kristine. So we're coming back. We're looking at it.

I think, if we're looking at A, we should look at QB as well. It is having unintended effects? So is the sunrise period unintended

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effects? Here too I don't think the proposed question for the community really reflects what we found which is, yes, there are unintended effects. And we found a number of situations and cases where we know that some people are gaming the system and they're registering trademarks that are not brands for the purpose of getting priority. Andrew Allemann and others have submitted a number of articles on this.

So I think we should be looking at both of these together. Thanks.

GREG SHATAN:

Kristine?

KRISTINE DORRAIN:

Maybe I'm thinking of an old definition, but I do agree and I'm assuming that we're going to juxtapose Preamble A and B right next to one another, in which we will say, "Yes, this is what we believe the intended purpose of sunrise is. Yeah, we think, generally, it's doing its job. Yeah, we generally believe that there are some unintended effects. We disagree as to the scope," because I think that's where ... I think we can uniformly agree that there are unintended effects. I really think we can. I think you and I or many of us will agree as to the scope or the impact of those. I think we could take a show of hands now and say, "Unintended effects? Absolutely."

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KATHY KLEIMAN: Unintended effects and gaming.

KRISTINE DORRAIN: You don't have to say "gaming." The question is unintended effects. Let people say what they won't. We don't have to say gaming because "gaming" is a loaded word.

KATHY KLEIMAN: But they are intended effects. Somebody is gaming on purpose. It's very intentional.

KRISTINE DORRAIN: It's not the intended effect of the sunrise. It's an intended effect of the infringer or the bad guy.

GREG SHATAN: That's an unintended effect, and it's an intentionally unintended effect.

Edmon?

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EDMON CHUNG: Just quickly, why don't we list the unintended effects or at least some examples of it? I think it would be useful to get a sense of what those unintended effects are.

GREG SHATAN: I have Michael followed by Maxim.

MICHAEL KARANICOLAS: Hi. I agree that I think these questions should be taken together. I also agree that I think we can do slightly better and probably reach some form of consensus around both of these.

I have a bit of a problem conflating the purpose of sunrise with the function of sunrise. The statement that's there as is just describes how it works. When you talk about the purpose of it, to me the question is why it does what it does. That, I think, is a bit thornier.

I do think that we could hopefully flesh this out a little more close to the lines of which Kristine just mentioned, which is to essentially say, "Yes, it's given the effect to legitimate trademark registrants that we have wanted, but there are also illegitimate consequences that we've seen." My understanding as well of the scope of the conversation is that I think that we agree that there is some stuff happening that's not ... if you want to call intended, if you want to call it abusive, if you want to call it gaming, that's

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problematic, but I think that the disagreement, as I understood it, was about the scope and extent of the problem, not the fact that there is some stuff happening that's not ideal.

GREG SHATAN: Maxim, followed by Kristine.

MAXIN ALZOBA: Actually, I would recommend not to add examples for two reasons. First of all, we don't have space for limitless examples of how people went wrong in what they did because they're quite inventive. The second thing is I'm not sure, in AGB or somewhere in ICANN policies, we have allowed intentions or something like that. So we don't have to limit what people are allowed to do before they breach some kind of rules or policies. Thanks.

GREG SHATAN: Kristine?

KRISTINE DORRAIN: I was going to say something similar to Maxim. We've talked about examples of unintended consequences here, but ultimately we can't put people's actions in trials as an example. There are people who believe that some actions were bad or not, but until someone has adjudicated that, I would feel super

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uncomfortable finger pointing or name calling in the community some people’s actions, whether or not we even agree that they’re bad. I don’t think we should do that.

Also, to your point about if we want to use the word “abusive,” when we drafted these questions, we fought and fought and fought over words like “abusive” and “gaming,” and we purposely pulled hard. That’s why it says “intended effects versus unintended.” That was months. For those of us who were on the initial drafting/wordsmithing calls, there was months of trying to have this neutral-as-possible language.

So I get your point, but I think we need to keep it intended and unintended, because otherwise we’re just stirring up that hornet’s nest.

GREG SHATAN:

Thanks. I’m going to turn to Julie and then back to our Chair, David.

JULIE HEDLUND:

Thank you. I have a comment to read, and then, if I could just briefly turn it to Ariel, she can point some suggested text. A comment from Phil Corwin: “I believe that “unintended effect” is efficient. Its open-ended nature permits community members to fill in whatever blanks they believe exist. I’m concerned that we’ll

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get bogged down in debating what specific effects people think should be listed.”

ARIEL LIANG:

On the fly, I was just trying to revise the language for the proposed answer to A and B. Basically, the changes. On the noted [intended] internal purpose, I moved the language to the proposed answers. So, “The sub-team noted the intended purpose for sunrise service is as follows,” and then blah, blah, blah. After that sentence, is, “The sub-team generally agreed that the sunrise period is serving its intended purpose as stated previously.” That’s the revised proposed answer for A.

For B, the changes: “The sub-team generally agreed that sunrise period is having unintended effects. However, the sub-team had widely diverging opinions on the scope and extent of the unintended effects.”

Would that work?

GREG SHATAN:

David?

DAVID MCAULEY:

Thanks, Greg. I raised my hand as a participant, not as Co-Chair. I just wanted to mention that, when I listened to the comments,

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especially the beginning comments by Kristine and Susan, it struck me that what we're talking about here is perhaps tweaking the language in some of these question. But Susan's question is different, and that is, should we simply indicate that we disagree and not ask for public comment on the sunrise? I tend to think that's a fair question.

With respect to tweaking the language, however, and speaking specifically to Question 6B and the unintended effects discussion, my suggestion would be that we add in, if we do reword this, the concept of materiality. So talk about materially unintended effects. The reason I say that is we've had discussions now, and there's been some instances where we're illustrated unintended effects that struck me in the discussions. Maybe others didn't see it this way, but some of those struck me as being one instance in a universe of a million possible actions. So those would not be something, in my view, that would stop the sunrise sub-team from continuing its work.

I think that, if there's unintended effect, we have to limit our concerns to those that are of some substance and keep in mind that we have to have wide support for what we do.

Anyway, that's my comment as a participant. Thank you.

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GREG SHATAN: Kathy, your hand is up in the chat, and then, Griffin, your hand is up in the room.

KATHY KLEIMAN: First, I think we've had a comment from a member of the public, that they'd like to hear some examples. So I think that's a very useful input. So thank you.

Also, to Kristine, we tried to be really neutral in the questions. It doesn't mean we have to be really neutral in the answers. We found some real clear evidence of abuse. I don't think anyone would question that there was. There is a question of how wide it is, but there's evidence of abuse and many, many blog articles that have been submitted. I refer to Michael, who submitted many of them, if you want to summarize some more of them, if you would. Is that okay? Then we'll pass it over.

GREG SHATAN: Susan?

SUSAN PAYNE: I totally agree that there are blog articles. I think it's going somewhat far to call that evidence of abuse. What we've got is blog articles from people who have identified examples and behaviors which they have determined to be abusive. But there

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has been no judgment that ... no one knows for sure that that registrant for [“the”] doesn’t in actual fact ... it isn’t an acronym for something. I think we all have our suspicion. I’m not disagreeing with you. I personally think it probably is.

But the point is, we have not made a judgment that this is abusive gaming. What we have done is read an article from someone who has formed an opinion, and we’ve all gone, “Hmm. Yeah, that’s very interesting. And we’re not very happy about this.” We think there’s gaming. We think there’s abuse, but there’s no judgement to made about that. I think it’s dangerous for us to be making assumptions about the motives and the behaviors of a particular individual or group of individuals when we don’t know that. We’re just a group of people in a room who read a blog article.

GREG SHATAN: Griffin, followed by Kristine.

KRISTINE DORRAIN: No. Lori is first, then [me].

GREG SHATAN: All right. Lori and then Kristine.

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GRIFFIN BARNETT: Thanks. I think the way that Kathy just put it is fairly close in terms of the new revised wording that we have there. I'm quite satisfied with the revised wording for Preamble B because I think it does capture what you suggested, which is that I think we all generally agree that there are some material unintended effects. But we disagree on the scope and extent of those effects. I think that is sufficient in terms of setting forth our position at a high level for the sub-team and certainly sufficient to precipitate public comment on what you're suggesting. So that's my first point.

My second point is just, on a related but separate issue, having revised the wording for both A and B here, do we think we need the Column 3 text, which basically just invites public comment on the answers? We've discussed this a little bit before, and I don't think we need it.

GREG SHATAN: Lori, followed by Kristine. Then I put myself in the queue.

LORI SCHULMAN: In terms of the change language on the left, I would tend to agree with Griffin as well and Kathy. We understand there's a problem. The real question we're asking is, how pervasive is it? That's what we don't know. We know there's a problem. It could be tiny. It could be a subset of a very small amount of names. Or it could be

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more. This is what we couldn't ascertain. So I think it's fair to ask the public.

So I would, yes, completely change that to coordinate with what we've just changed to say what we're asking is for examples of how pervasive is this in the system right now? To your point, we've read one article. That, either side would argue, is not substantive enough or providing us enough of a bird's eye view of this process.

I don't know who's keeping data on that, quite frankly. I'd like to know if someone's keeping data on that. Seriously, if you know Michael, where the data is, I want to see it because, if it's something that is significant, we do have to address it. I agree. But if it isn't, it isn't.

GREG SHATAN:

I've got Kristine, followed by myself, and then ...

KRISTINE DORRAIN:

Thanks. I'm just echoing Griffin because he said the same thing I was going to say, which is that I think that the formulation – again, just to reiterate – does encompass both where we agree, and it highlights where we diverge to Kathy's point. She has a very strongly-held opinion on one side. Others have a very strongly-held opinion on the other. I think this answer captures that: divide

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neatly so we know where we agree and where we disagree.  
Thanks.

GREG SHATAN:

Thanks. For myself, and speaking as a participant, I don't agree with the use of the word "materially" in QB. Especially as Lori pointed out, it could be tiny – tiny immaterially or opposite.

Secondly, to remind ourselves, we should also discuss whether there's a proposed question to be asked for QA. I believe the answer is no. So that's my two thoughts. I'll go over to Griffin.

GRIFFIN BARNETT:

Thanks, Greg. My suggestion was to indeed delete the entirety of the text there in the third column for both A and B because I think it really just reiterates what we're already inviting comment on from our proposed answers. I'm fine also with moving "material." I don't think you need it. I think people will comment on, again, the scope, extent, and nature of what they view as the unintended effects, and the materiality of that is for us to decide.

GREG SHATAN:

We have a comment in chat.

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JULIE HEDLUND: The comment in the chat is from Anne Aikman-Scalese. The comment: “I would be very reluctant to give specific examples when we do not know the applicable libel laws.”

GREG SHATAN: Thank you, Anne. Do we have any other—

UNIDENTIFIED FEMALE: [inaudible]

GREG SHATAN: Who has a hand?

UNIDENTIFIED FEMALE: Zak.

GREG SHATAN: Zak? Please go ahead.

ZAK MUSCOVITCH: Thanks. I just want to share with you what, to my mind, is an unintended effect. I’m perfectly happy with the language, mind you, as revised. But the purpose of the sunrise in my view is to protect brand owners and give them first dibs on domain names.

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So that's the purpose of the policy, which I understand and agree with.

What I think makes some people uncomfortable is that people have used the sunrise in order to get domain names when they're not established brand owners. In other words, they don't use sunrise to get a domain name that corresponds to their longstanding brand. What they're doing is they're registering trademarks specifically for the purpose of getting the sunrise names.

So that's, I think, an unintended consequence of the policy. That's really the extent to which I think there's an issue and how extensive it is, etc. What can be done about it? Probably nothing. Once they have trademark and national trademark, they qualify. Probably nothing can be done, practically speaking, but to my mind, at least that's what the issue is: people specifically obtaining trademark rights to get the corresponding domain names. Thanks.

GREG SHATAN: Thank you, Zak. I've got Maxim.

MAXIM ALZOBA: I think we should be extremely careful in this because it's not possible, before the hypothetical future sale of the domain name

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or the rights of the domain name, to distinguish between a proper, valid startup, which maybe has a few [coins] here and there – they manage to pull some product together to base the crowdfunding on some platform. Many startups start like that. I’m not sure we’re in the business of suffocating startups. Since the decision, if it was good or bad, is possible to be made only after the process of registration, and since the current domain policies usually, if we’re not talking about some specific TLDs with [heavy] rules, which [proscribe] the particular use of the domain name, we cannot just track what happened. We don’t have mechanisms. Nothing. I would recommend not to do so because it would require a way different level of spending from registries, from parties, interested. That’s why domain registrations are almost final. It’s registered and then there are policies on what the registrant can do with it. Thanks.

GREG SHATAN: Zak?

ZAK MUSCOVITCH: Just a brief rejoinder to that. Maxim, I fully appreciate that startups who apply for trademark in our recent registration should have every right to it. But I don’t want to conflate the issue of what the intended purpose of the sunrise policy is from things that can or can’t be done to improve it. Whether there’s a policy

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that we could come up with that avoids parties specifically going out en masse to register trademarks specifically to get corresponding domain names, maybe we can't do anything about that. But if we can or if we can't is a separate issue, a remedial issue.

On the question of identifying whether there's unintended consequences, it seems like we agree on the purpose of the policy: to allow brand owners to have a first right. But it isn't, as far as I can see, intended to allow people to specifically go out en masse to register trademarks in order to get corresponding domain names. If we can agree on that, it's an unintended consequences. I even believe, Michael, there's been interview with people who said, "This is our business plan. This is what we do."

GREG SHATAN:

Let's see. I think I have Susan, but first, our job here today is to come up with text that we can widely support. I fear that, if we reopen the essence of this conversation, we'll spend the next two meetings on this question.

So who do I have? Susan and Kathy? Griffin, you've been in the queue before.

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GRIFFIN BARNETT: I was going to comment on something different, but I think I have to agree. I think our task right now is not to debate that there are unintended effects. I think, again, as this text correctly captures, there's general that there are, the nature of which – one example you described. I don't think we need to go in more detail in how we frame our answer. I think we could probably put an underline for that. It is the role of public comments to further tease that, and that's what I think we're inviting here.

GREG SHATAN: Susan and Kathy, and hopefully we can wrap.

SUSAN PAYNE: Thanks for that. I was just going to say I think the QB answer captures what you were just saying, Zak. I think we agree. I think we're all in agreement. So if you were happy with that text, then I think generally we all think that that text does the job.

We did spend some time talking way, way back about what we could do about this. Obviously, this is a conversation that I guess we'll come onto later, but there was, quite some time back, a suggestion from, I think, Brian Beckham about beefing up the sunrise dispute process to try to find some practical way to help address that issue that you raised.

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GREG SHATAN: Kathy, and then I think Griffin, and then David McAuley. So we'll turn it back to the Chair, the functional Chair. Kathy?

KATHY KLEIMAN: I'm going to revert back to a while ago. I think we deleted "materially." I think it made sense. I don't think anyone is going to understand what we mean by unintended effects if we don't define it. I think Lori's comment – the proposed question for community input would give us more background than what we're actually looking for. I don't see why we deleted that. I think it made sense that we look to see how pervasive the unintended effects are as we define it under the proposed answer. So I'd like to ask if anyone wants to define unintended effects because I think we need to give the public some guidance on this. Thanks.

GREG SHATAN: Kristine briefly and then David.

KRISTINE DORRAIN: I don't think we need to define unintended effects because I think that, if the community think that there are any, they were already know about them. If they don't, I don't know that we need to create a laundry list for people to find a problem where they didn't previously see one. We want to the community to come at this from their lived experiences and from what they see. They

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read the same domain name industry articles that we all do. They show up in their stakeholder groups that we all show up in. For the most part, we're a pretty insular group. So I think that, if there's people in the community that aren't aware of this, they're hiding under a rock and probably aren't going to respond anyway.

To Susan's point, I just wanted to consider what she had said about mitigation. I know Griffin had proposed not asking any questions because I don't think we necessarily have to. But at the risk of opening a can of worms, to the extent we want to ask a question, does it help to ask the community for actual practical solutions? We don't have any fixes. We can't prevent people from going to trademark offices and getting a trademark for the purpose of this. Maybe the community will come up with this idea of fixing the SDRP. I don't know. But does it make sense to specifically call for mitigation questions? Because that's our definition of asking for elaboration. Don't ask for more of what we have. Ask for an elaboration. So I think that's something we can consider. How would you fix it?

GREG SHATAN:

David?

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DAVID MCAULEY: Thank you, Greg. I had put my hand up as Co-Chair, and my hope is to draw a line on this discussion. I actually think there's been a lot of good commentary. I think the job is now up to Greg and I to now pull these threads in text that will get passed us in the spirit of compromise, recognizing that we're close to the end of our work. Again, the standard for getting things through is wide support.

Greg, I'll have to ask you if there's others in the queue. If there are, I would ask first for comments to be concise, to the point, so that we can move on to the rest of the preamble questions and then keeping moving. Thank you.

GREG SHATAN: I have a hand from Zak. Is that a ...

ZAK MUSCOVITCH: No. An old hand.

GREG SHATAN: Okay. I'd just like to briefly remark that, in the claims meeting, we discussed a general idea of when we should be asking questions and when not. I think Kristine had some good language on it, and I had some suggestions that we really should only ask where we're asking for a specific response or where there's something

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more than just responding to our answer because clearly the entire public comment period is meant for people to comment on our report. As a general note, people should respond with rationale and evidence wherever possible to all of this. So I don't know that we need to underline that in any specific question because that really should be the general instructions – the super chapeau text, if you will.

So that's – Griffin has his last hand up.

GRIFFIN BARNETT:

Yes. All of them are gone. Just to help, I think, maybe Ariel in drafting the additional question, I would probably say, "How would you remedy any unintended effects of the sunrise period that you have identified in your public comments?" I think that just makes it a little bit more clear so that we avoid presupposing that we are, even though I guess our answer kind of does do that ... yeah, okay. Yeah. But my point is that it's asking for people to present solutions to any that they raise in their public comments. I guess that's what I'm trying to clarify.

GREG SHATAN:

No hands in the room or in the Zoom, so we can turn to the next sub-part, I believe. I'll turn it back to David.

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DAVID MCAULEY:

Thanks, Greg. We're now at Preamble Question C, and that question is, is the Trademark Clearinghouse provider requiring appropriate forms of use? If not, how can this be corrected? Our proposed answer here is that the sub-team generally agreed that the Trademark Clearinghouse provider is requiring appropriate forms of use.

If there is anyone that wants to comment on that, please join the queue right now and be brief and concise. I suspect we may be able to move on, but let's see. Greg, I'll ask for your help again.

GREG SHATAN:

I see now hands. We can move on.

DAVID MCAULEY:

Thanks, Greg. We're now going to talk about Questions D through F. We'll just lump them together. I'll use D as an example. The question is, have abuses of the sunrise period been documented by trademark owners? Let me read the answer that we have for that. "The sub-team interpreted this question as follows. Have abuses of the sunrise period by trademark owners been documented." We came to no conclusion.

The next two questions largely follow the same road. Question E is, have abuses of sunrise been documented by registrants? We interpreted that as, have abuses by registrants by documented?

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F is, have abuses by registries and registrars been documented. We came to no conclusion in each instance.

So those are the last three of the preamble questions. I'm going to open a queue and see if anybody wants to speak. Again, I'll ask for Greg's help.

GREG SHATAN: No hands in the Zoom. Michael Karanicolas's hand in the room.

DAVID MCAULEY: Thanks. Go ahead, Michael.

MICHAEL KARANICOLAS: Thank you. Based on our discussion that we just had, I think I'm probably correct to infer that there's consensus that there have been unintended effects but that people don't like calling it gaming or abuses. Is that where we are?

GREG SHATAN: Kristine?

KRISTINE DORRAIN: I would say yes. Furthermore, I think the other issue with this, as I recall from the discussion, is we have got hung up on "documented." So we have maybe some blog posts. We have

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some sort of inferential viewings of things that we saw. But whether or not one can document what we call abuses I think is where we got hung up and that's where it ended up spinning, as I recall.

GREG SHATAN: Thanks. I'll just insert myself in the queue briefly to say I agree with everything you said, Michael, except for the word "like." I don't think it's a question of liking to call them abuse.

MICHAEL KARANICOLAS: [inaudible]

GREG SHATAN: Yes. That those—

LORI SCHULMAN: [inaudible]. I think what we're trying to avoid is leading questions, like in the comments, by putting definitions or saying "like this," "like that," or, "like the other." If I'm correct in what Kristine's saying, it's not that we're saying there might not be gaming. If someone is registering a trademark, they have no intention to use it and the only intent is to get into the sunrise, yes, I think we'll agree that it's gaming. But to your point, we don't know that.

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So, that being said, I think, if we ask with leading questions, we get the answers the questions lead to, as opposed to keeping them more open, where people can say, “I am aware of this.”

GREG SHATAN: Susan?

SUSAN PAYNE: Thanks. I think it’s also, how to you categorize who the gamer is, if you like? That’s the answer to that. If we take that example of someone who got a trademark registration for the purposes of getting a sunrise when they’re not a genuine brand owner, I don’t think that that is an abuse by a trademark owner because it’s not a trademark owner. But it is a trademark owner because they have a trademark. Do you know what I’m saying? We’re all talking about getting a trademark for the purposes of getting a registration when you’re not a legitimate business operating under that brand. So is that an abuse by a trademark owner or is that an abuse by a registrant? You see, it depends on your perspective. I don’t see that as an abuse by a trademark owner. I see that as an abuse by a registrant. You probably see the reverse. So I think that’s also one of the issues with these questions and how you answer them: it all depends on your perspective.

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GREG SHATAN: Maxim and then Michael.

MAXIM ALZOBA: Actually, just to add to that, in even a situation where, for example, now you see some party as a good party and, if it decides to sell the domain and close the business basically opened for this very reason in a year, you have a situation where the same party is going to be good and bad at different times. So it's a bit murky.

GREG SHATAN: Michael?

MICHAEL KARANICOLAS: I'm not actually that hung up on whether you call the person a trademark owner or a registrant. I think both are accurate. I think the person is a registrant and they're also a trademark owner. You can call them an illegitimate trademark owner. I understand that you don't want to tar the legitimate users of the system with that brush. I get that, but I don't understand why we need to couch it in all these different euphemisms. Even if it's just this one case – so there's one company, one guy, who registered luxury, cloud, bet, real estate, wedding, travel, and finance. What a diverse company that guy must have! Maybe you want to give him all the benefit of the doubt in the word. I feel like that's a pretty clear

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case. Even if this is the only time it's ever happened, then that means there is a case of an abuse of the system.

GREG SHATAN: I have Griffin, followed by Kristine and Kathy.

GRIFFIN BARNETT: I think we're getting a little bit bogged down in the rigidity of the questions, rather than getting to what we're actually looking for. I actually agree with Michael on this point, which is that we're looking for this type of information about what is a problem so that we can get to a solution, which is, how do we address – well, first, let's get the information, what are identified as problems, so that we can determine whether they are – again, going back to our revision to the proposed answer earlier – sufficient in scope to warrant taking some kind of corrective action to address that type of activity.

So I would say let's not get super bogged down in the semantics of the questions because that's what we're really getting at. I think, by having these questions and our proposed answers to them, we will likely get that type of input that we are looking for.

GREG SHATAN: Kristine, followed by Kathy.

KRISTINE DORRAIN: Thanks. Again, I'm going to ask Lori to bring me [up] her rememberings, and Susan. When we went through and drafted these questions, what we were trying to get it – you'll notice we didn't split them up when we wrote them. We went through this, is it doing what it was supposed to do? Are there any unintended consequences? Then we went to this three-part, are there documented abuses? As I recall, we were all in our varying hats. Someone was like, "Trademark owners are abusive," and some people said, "Registrars are abusive." So then we broke it all out into, can we document these abuses?

So I think, to Griffin's point, I think we want to – I'm actually going to make a proposal that we literally compress QC, D, and E into one single question and say, "The sub-team didn't find good documentation of abuses. To the extent that the community comments have them, please be very specific and help us with that documentation." Something to that effect because that's really what we're trying to get at. We're really looking for—

LORI SCHULMAN: We want evidence.

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KRISTINE DORRAIN: Yes. For C, D, and E, we’re beginning for evidence for examples of B. That’s what the question was designed for originally. So that’s, I think, what we need to draw the community out into here, rather than discussing whether or not we found any evidence, because we didn’t. We need any hardcore documentation.

LORI SCHULMAN: I’ll respond. I agree. I do remember going in circles about this. I think, Kathy, you were on the calls to. Again, this is about being evidence-based, data-based. We knew we didn’t have certain data. We did a survey. But there was other data about these real-life situations where we – again, to get to the point, understanding there may be a problem, we have seen reports here and there. But there’s no way this group, where we were sitting, could know the extent of it because, if it’s extensive, if we can say, “Here’s 100 examples,” or, “Here’s three examples,” is three right? 100 right? Well, we have to go back as a working group and decide that later. But this is why we’re asking for the comment, and this is why the questions were drafted that way. Compressing them I think might make it a lot easier for the community to respond to because one of the thing I think we should try to avoid, if we can avoid it – it may not be able to help because of how technical this work is – asking dozens of questions. It deters responses. So, if we can consolidate

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questions to get to a central point, I think it would make it a lot easier for people to come forward with their examples.

GREG SHATAN: I've got Kathy, followed by a comment in chat.

KATHY KLEIMAN: These questions were intended for us, not necessarily the public, if I remember correctly. They were intended for our review as a sub-team and as a working group. I can see why D and E would be combined – abuses of trademark owners and registrants – because it does seem to be borderline. If we're going to answer it, we have found evidence of abuse. There is evidence of gaming. There are a number of articles by those ... Andrew Allemann, who's Domain Name Wire, spent a week looking into this. And we know the Trademark Clearinghouse is not public, so we have to rely ... One of the reasons we went to additional data was to look for articles and look for people who have spent the time to investigate and research and report.

So, if we keep – I'm not sure we have to – C, D, and E ... No. C, D ...

UNIDENTIFIED FEMALE: It was D, E, and F. I misspoke.

KATHY KLEIMAN: D and E. I think F we haven't found ... I'll posit that we haven't found any abuses by registries and registrars in the sunrise period. So let's posit that for a second. So D and E. Then we can throw out the question completely, but I don't think we can say now, because we have. We've found abuses. Thanks.

LORI SCHULMAN: We're not saying that. I'm sorry. I want to respond to that. we're not saying we're not finding abuses. We're admitting the abuses. We're just saying how big is the problem. That's all. I think there's a misunderstanding here. I don't think anybody is saying there's no abuse. What people are saying is – well, you say, "If there's abuse," "Assuming abuse," whatever that preamble is, "how much is there?" That's what we want to know. Okay? Just for clarity.

And I agree, yes, these were internal questions. But those questions were meant to guide us in drafting the comments. Since we didn't have the data then, I'm going to speak with my former sub-team chair hat on and say I certainly felt that, if we didn't have this internally, then we were certainly going to ask the community for it, because where else are we going to get it? I mean, it wasn't really addressed in what we did with – what's their name? The—

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UNIDENTIFIED FEMALE: Analysis Group.

LORI SCHULMAN: Analysis Group, yeah. Sorry.

KATHY KLEIMAN: Can I follow up quickly? Would that be okay? For Column 3, Lori – proposed question for community input, assuming abuse: how extensive is it?

LORI SCHULMAN: To the extent that there’s abuse. That’s what I would say: “to the extent that there is abuse, how pervasive is it?” I wouldn’t assume anything because some people come back and say, “No abuse. We’re good.” Someone else is going to say, “Uh-uh. Sorry. Here’s an example of ten we already found when we tried to register names.” So I would say “to the extent that there is.” That I think is a compromise that we hopefully can live with.

GREG SHATAN: Kristine, followed by Griffin.

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**KRISTINE DORRAIN:** I think that we're getting closer. What we're focusing is we're doing A, then B, then – I don't know. C is in the wrong order. Staff might want to take a note because it doesn't follow logically. I would move C to the end. So I would do A and then B and then really D and E. We'll take Kathy's posit on F for a minute because I agree. I think then we take D and E as almost a sub of B. So where we admit as a group that we agree that there are unintended effects, then immediately move to D and D and say, "Document and explain." Then you've got a logical flow for people that says, "Yeah. It generally seems to be working. It's not perfect. Give us some examples." Boom, boom, boom. Done. And then add the rest of it at the end [for Grady].

**KETHY KLEIMAN:** What happens to Question QD?

**KRISTINE DORRAIN:** D and E would be merged, I think, under your proposal. I would propose that we just merge them. What documentations of abuse do you have by anybody, anywhere, ever. I don't know what else to say about that.

**GREG SHATAN:** I'll go to staff for the chat.

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JULIE HEDLUND: Here’s a comment/question from Michael Graham. He says, “Why not a single question? Have you documented any unintended consequences of the sunrise period? If so, please provide that documentation for review.”

GREG SHATAN: I had chat and then Griffin.

JULIE HEDLUND: And then Ken has a question.

GREG SHATAN: Ken Stubbs?

JULIE HEDLUND: [Yes].

GREG SHATAN: Okay. Griffin?

GRIFFIN BARNETT: Griffin Barnett for the record—

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KEN STUBBS: Can you hear me?

GREG SHATAN: Ken, hold off. We hear you. We've just one other hand in the room before you.

KEN STUBBS: I apologize.

GREG SHATAN: Okay. Griffin and then Ken.

GRIFFIN BARNETT: Thanks. My original comments, I think, maybe got passed up by some of the additional comments that were just made. I tend to agree with Kristine's point about taking D and E and pushing them up so that they're immediately following B so that we have this overarching, unintended effects questions, followed by something along the lines of, "Please provide additional evidence or documentation of such unintended effects. Explain/specify, etc."

I don't want to lose sight, though, of sub-part F as well. I know Kathy suggested it's perhaps of a different nature than the types of unintended effects that we're talking about with respect to trademark owners or bona-fide or illegitimate, but I think I don't

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want to lose sub-part F because I think we do want to also collect similar comment and evidence and support relating to potential abuse, if you will, by registries and registrars. I think it will perhaps be of a different nature than the other types of abuse we've been talking about. I think we don't want to lose that.

GREG SHATAN:

Thanks, Griffin. We'll go to Ken Stubbs on the phone.

KEN STUBBS:

Thank you. I'm speaking to you from Florida here. I apologize, but I really believe that the wording is not strong enough. I think that there's too much ambiguity in there, and there's an implication that there are questions as to whether or not there have been abuses. I think we clearly have evidence that there had been abuses in previous rounds. What we need is the documentation for these abuses or more information to imply there may have, might have. I think it needs a little bit more teeth in the way the question is structured.

There are a lot more people that are a lot more invested in here than I am right now, so I'll go with whatever you feel like, but I can't agree personally that the question does not imply, "Well, maybe there were abuses." That's not the case. There were clearly abuses. I think we have enough documentation to prove

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that there have been abuses, but I think you're asking for additional documentation, either abuses that have not necessarily had the light shone on them. That's just my opinion. Thank you for hearing me out. I apologize for bothering you guys.

GREG SHATAN: Thanks, Ken. Anne?

ANNE AIKMAN-SCALESE: Thanks. I know I don't have the history, but I wonder if it would help working group not to talk so much about abuses by owners or trademark owners. This goes a little bit to Susan's point, but perhaps it would be better to phrase things as abusive uses of trademark registrations in the sunrise because, when you're calling for public comment on this, you again will pose the problem giving public comment that that they'll need to name names. I think it'll be easier for them to name the situation if they're not talking so much about the owner as they are about the actual registration itself and questioning whether there was an abuse. So it would be abusive uses of registered trademarks, rather than abuse by trademark owners. Again, as Lori says, trying not to load it.

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GREG SHATAN:

Let's see. We have some hands. I'll time check. We have twelve minutes and twelve questions left to go after this – oh, including sub-parts. Are those both old hands, Kathy? Is that a new hand? If you can't think whether it's a new hand or not, that's an old hand. That's the rule [inaudible].

Any comments on this? Because I think we're stumbling maybe perhaps on the issue of documentation. Really, this is David's question to chair, but it seems to me that we could spend the next 15 minutes and not agree to come up with putting an example in that we believe is a documented evidenced example and that we're much better off just asking for it all to come in. Everyone will define abuse the way they want to. Some people will put in things that other people disagree are abuse, but they'll, by their own question, answer it the way they will. I think the same thing with unintended consequences. One man's meat is another man's poison or whatever. So I think we leave this broad.

This is clearly not the last time we're going to discuss this. Maybe as a sub-team it is, but when we get the public comment back and when we get new information – I presume we will, and see all the old information again – maybe we'll get better information about some of the articles. Then I think we'll have a real bonfire. Right now, it's just a sizzle.

Any comments on this? Maybe we can – Ariel?

ARIEL LIANG: Probably just quickly summarizing what we're trying to add on the fly, it combined Preamble QD and E together, and then the current proposed answer – of course pending the sub-team's agreement – is, "The sub-team interprets these questions as follows. Have abusive uses of the sunrise period been documented? The sub-team generally agrees that there are unintended effects but had widely diverging opinions on the extent and scope of abusive uses of the sunrise period." Then there is a potential question for public input for people to specify any documentation of abusive uses of the sunrise period that they have identified. That's what we captured at this moment.

GREG SHATAN: What about C, D, E, and F? Does that cover all of that as well?

ARIEL LIANG: Yeah. For the others, I think – less controversial – the part we merge is D and E. For C, there's no change. For F, we don't have change to now.

GREG SHATAN: Kristine?

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KRISTINE DORRAIN: Can we make this way simpler by just saying, “Have abuses of the sunrise period been documented?” Period. Or question mark. Way to be at grammar.

GREG SHATAN: Can you say that again louder?

KRISTINE DORRAIN: “Have abuses of the sunrise period been documented?” Question mark. Not by whom. Just, “Have abuses been documented?” B says, “Is it having unintended effects?” and then D will say, “Have the abuses been documented?”

GREG SHATAN: So you’re suggesting that as a charter question?

KRISTINE DORRAIN: Kind of a merging.

GREG SHATAN A merger of the charter questions.

KRISTINE DORRAIN: A merger of the charter questions, yeah.

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GREG SHATAN: Any thoughts on that? It does make things simpler, but then, I guess, the question is, what is our answer to that? And that's where the real disagreement was. Articles exist that write about things that people would fairly call abuse. Whether that's documentation or evidence is a different question.

UNIDENTIFIED FEMALE: [inaudible]

GREG SHATAN: Yeah. It's all coming in, cards and letters. Griffin?

GRIFFIN BARNETT: I think our revised proposed answer for sub-part B really also suffices for this additional revision to the formulation of the combined iteration of sub-parts D, E, and F, or whatever, because we're saying we agree that there's problems. We diverge on the scope and extent of the problems. Really, all the rest of it is just asking for more detail, more information, to support or, I guess, flesh out the scope and extent, if that makes sense.

GREG SHATAN: I have Zak, followed by Kathy, followed by Kristine.

ZAK MUSCOVITCH: Thanks. For what it's worth, I don't think I'm hearing from the people in this room and on this call, at least, that there's such widely diverging opinions on the scope and extent. At most, I would characterize it as there's uncertainty about the scope and extent. If everyone is acknowledging that there has been unintended effects but some people feel that it hasn't been sufficiently documented to identify the scope and extent, that I think I'm hearing. But it doesn't sound like, "Some people say there's just a ton going on, and other people say there's zero going on." It seems people at most are uncertain. Thank you.

GREG SHATAN: Kathy?

KATHY KLEIMAN: When Lori was in the room and she had been the sub-team Co-Chair on the question, we asked the question, should we get a merger or leave the questions aside? She seemed to think the questions belong, so I'm loath to dismiss them now that we've gone through all of it. I think we had an agreement – I think we should stay with it – that had the questions and merged them and had given an answer to it. I think we're there. Thanks.

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GREG SHATAN: Kristine?

KRISTINE DORRAIN: Thanks. I think my point actually addresses Kathy's perfectly. I was going to say that I like the way Ariel did it. If we scroll up to C, which she just did, you leave Preamble, QD, QE, and QF. She absolutely copied the text. Then she said in her proposed answer, "The sub-team interpreted these questions as follows. Have abuses of the sunrise period been documented?" which was this possible group interpretation we've come up with. Then we go on. If you look at the other column, we call for the data. I think that addresses it, right, Kathy? Because it leaves those three questions there and talks about how we consolidated them and what our ask is.

GREG SHATAN: Following the KISS rule – Keep It Simple; and there's a second S – this would seem to satisfy or equally dissatisfy everyone in the room? Seems to be broad lack of disagreement.

Great. Let's move on to Question 1 in five minutes. Maybe we're actually able to deal with this. Question 1A: Should the availability of sunrise registrations only for identical matches be reviewed? Proposed answer: The sub-team generally agreed that

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the availability of sunrise registrations only for identical matches should not be reviewed.

Q1B. If the matching process is expanded, how can registrant free expression and fair use rights be protected and balanced against trademark rights? Proposed answer: The sub-team generally agreed that the matching process should not be expanded. We could add to that “so did not reach this question.”

The preliminary recommendation is the sunrise sub-team recommends that the current availability of sunrise registrations only for identical matches should be maintained, and the matching process should not be expanded.

Any comments? Any questions? Kathy, is that a new hand?

KATHY KLEIMAN: Oh. Sorry. An old one.

GREG SHATAN: That’s okay. Susan, is that a new hand?

SUSAN PAYNE: Yeah. Thank you. I think generally, across this sub-team and across the other one on claims, there’ve been differing approaches to when we decide that we note divergence and whether it’s wide or narrow divergence of opinion. When we just

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go, “Oh, no. We were generally in agreement,” I personally feel that there are some in this sub-team who think that the matching rules should be expanded. So to say that the sub-team generally agreed that it shouldn’t be expanded I think goes too far.

Now, I’m not suggesting that we’ve got an outcome from this sub-team that is proposing an expansion of the matching rules, but to ignore the fact that there is a disagreement on this seems to me to be wrong.

So I don’t quite know what the terminology would be. Honestly, I think you could say something like, “The overall conclusion from the majority of the sub-team was ...” or something like. Just something that acknowledges that everyone is in agreement on this.

GREG SHATAN:

I see Ariel starting some language: “The sub-team had some diverging opinions on whether the matching process should be expanded.” Kathy?

KATHY KLEIMAN:

I like Susan’s language better.

GREG SHATAN:

Okay.

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KATHY KLEIMAN: Do you remember what you said?

SUSAN PAYNE: No.

KATHY KLEIMAN: I think it said, “The overall conclusion from the sub-team ...” That was about as far as I got in my notes.

SUSAN PAYNE: Yeah. Something like that.

GREG SHATAN: We need the active voice, and we need Edmon because he put his hand up.

KATHY KLEIMAN: That’s not active voice where it is.

EDMON CHUNG: Just maybe nitpicking, the first one says, “Matches should be reviewed,” and then [ends] with, “should not be reviewed.” I’m a little bit confused. Didn’t you just review it and decide not to revise it? Or now to review it at all?

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UNIDENTIFIED FEMALE: [inaudible]

EDMON CHUNG: Or is it just ...

GREG SHATAN: I think, if you look at the preliminary recommendation, you can probably take that language back into the proposed and just say “should be maintained.” Then we can deal with the—

EDMON CHUNG: Yeah. “should not be revised or something” because you actually reviewed it.

GREG SHATAN: Yeah. I’d say, “should be maintained.” Then I think we need something a little bit less aggressive than “generally agreed.” Then Susan had certain language, but maybe staff can magically come up with language that’s both passive and aggressive, or passive-aggressive.

Kathy, please go ahead.

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[KATHY]: How about, “The sub-team did not agree”?

UNIDENTIFIED FEMALE: Yeah.

[KATHY]: So, “The sub-team did not agree that the availability of reg”—

GREG SHATAN: It’s a double-negative.

[KATHY]: Yeah, you have to do a double-negative if you do that. It should be expand—okay.

GREG SHATAN: Griffin, you have a possibility?

GRIFFIN BARNETT: I’ll hopefully help. I think maybe this captures the idea of diverging opinions but ultimately concluding that it should be maintained.

[SUSAN PAYNE]: Yeah! That’s it.

GRIFFIN BARNETT: Yeah. So, “The sub-team had diverging views as to whether the availability of sunrise registration offered in en masse should be expanded. However, the sub-team ultimately concluded that sunrise registrations only for identical matches should be maintained.” Did that make sense?

GREG SHATAN: Kathy seems to be—

KATHY KLEIMAN: No.

GREG SHATAN: ... over there.

KATHY KLEIMAN: I think, again, we lead with the conclusion. So, “The overall conclusion was that the sub-team ...” I know you don’t want passive voice, but we’ve got passive voice everywhere. Then Q1B doesn’t make sense, either. If the changes don’t make sense – if the matching process is expanded, how can registrant free expression and fair use rights be protected and balanced against trademark rights? The sub-team did agree that the matching process should not be expanded. So we didn’t reach that issue,

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just as Greg said. The edits don't make sense here. I'm sorry  
[inaudible]

GREG SHATAN: Yeah. The last clause of IB should be, "so the sub-team did not reach this question."

KATHY KLEIMAN: Can we take the edits out? Because if we're going to talk about different, it doesn't fit here. We didn't get to this question.

GREG SHATAN: Susan?

SUSAN PAYNE: I think we say, "Given the answer to Question 1A, the sub-team did not address this," or, "did not cover this," or, "did not make any ..." Basically, we didn't talk about registrant free expression. Well, effectively, that was, I guess, what we were talking about when we were making our decision on 1A.

GREG SHATAN: I'll suggest that we not beat this further because we're probably going to go through the document and make sure that we say the same thing the same way each time. We'll try the best way

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because there are a number of times when this sort of thing happens.

Kathy?

KATHY KLEIMAN: 1A is still dangling. “The sub-team concluded ...” We had a conclusion, right? That we’re not going to recommend that the identical match be reviewed. “However, there were differing opinions.”

JULIE HEDLUND: Just having a hard time hearing. I think the second part to go first, the part that was the conclusion. So, “The sub-team concluded that the availability of sunrise registrations only for identical matches should be maintained.” Then I think Griffin had said, “The sub-team ...”

UNIDENTIFIED FEMALE: [inaudible]

JULIE HEDLUND: Yes. Go ahead.

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SUSAN PAYNE: Maybe just saying, “Noting that the members of the sub-team had diverging opinions on this.”

GREG SHATAN: At the very beginning, instead of “generally agreed,” I think “ultimately concluded.”

I’ll note that we started ten minutes late because some people got stuck at lunch, so we still have another six minutes. Not really. Actually, I think we’ve gotten through Point 1A and 1B, so I think it’s a good place to stop. We’re only three questions behind where we wanted to be. Let’s gather our victories and Rosebuds and go caffeinate.

I thank David McAuley for remotely chairing, Ariel and Julie for pulling our thoughts together, and everyone in the room for contributions and good collaborative work, even where there were frustrations probably on all sides that things weren’t said that one would like to say. But that is, in essence, the essence of trying to come to consensus.

With that, I will end the meeting five minutes early and five minutes late. Thank you.

**[END OF TRANSCRIPTION]**