

ICANN Transcription
Privacy and Proxy Services Accreditation Issues PDP WG F2F
Friday 16 October 2015 at 15:00 UTC

Note: The following is the output of transcribing from an audio recording of Privacy and Proxy Services Accreditation Issues PDP WG call on the Tuesday 16 October 2015 at 15:00 UTC.

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(Graham): For those on the Adobe we're gently resettling to get going again.

So I think where we're at is we're going to return to the document we started with this morning which was some of the issues flagged from the public comment review.

(Mary) is going to...

(Mary): Oh I - what am I doing?

(Graham): (Mary)'s going to put that on the screen for us. So I think where we're at if I can find it myself...

(Mary): (Unintelligible).

(Graham): There we go.

(Mary): Oh why is it showing this now?

(Graham): Is preliminary Recommendation 15. Oh, that's a small - any reason not to have a standardized form for reporting or if there is to be one considered not making it mandatory.

And the proposed response was this is given the recent blog post from ICANN compliance it seems reasonable that a minimum mandatory set of fields for submitting requests and abuse complaints should be developed.

This recommendation does not exclude additional fields or any - or suggest any particular form of implementation.

Note for instance that the report states this recommendation is intended to prescribe the method by which a provider should make this form available.

Example to a Web-based form, maybe it's an app, who knows, as providers should have the ability to determine the most appropriate method for doing so.

So the general question for the group then is is it reasonable to come up with a implementation I would guess is doing this a minimum set of requirements or required fields for an abuse complaint form or a request?

So Allen Grogan's compliance blog post from relatively recently earlier in October laid out the sort of basic information that you would submit to a registrar in terms of a complaint and the sort of expectations for a response.

And those - that minimum set of information felt to me like a reasonable basis for a minimum set of fields in this circumstance.

We all I'm sure read that blog diligently and we know exactly what I'm talking about.

I'm not sure if that actually hit the list. I think it did but if not we should maybe email that out again so people can see it. I think Steve has a comment here.

Steve Metalitz: I guess it might be helpful to moving the conversation forward. Who has a - if someone has a - obviously this was taken from public comments, not necessarily from someone around this table. But does anybody have a concern about having a standardized form?

Obviously we're not going to develop it but if someone is comfortable articulating what that concern would be that would be helpful.

(Graham): I like the phrasing of minimum set of fields rather than standardized forms so it's these are the things you need to complete to submit an abuse complaint.

And I think that list of things is probably relatively straightforward for that minimum list. It seems to be – here we go Kathy?

Kathy Kleimann: Not disagreement but just clarification in Annex E which of course (Todd) and I have lived in are we talking about like the fields of the request template for disclosure and just making each one a different field going through, you know, so the requester provides the service provider. The domain name that allegedly infringes X. The evidence, the full name physical address, email address and telephone number of the trademark just taking all that and making...

(Graham): More or less, yes. I mean it's not going to be those exact things from that framework but it's going to be pretty close to those exact things I think.

Great, that's my enjoyed broad agreement.

That brings us to the next one which is part three from the working group or the comment review tool Recommendation 6220 specifically 17 regarding further provider actions in the event of persistent delivery failure.

And I have nightmares, recollections of some of these calls where we spent lots of time talking about email.

And the suggestion here is the current wording in the report is as follows. A persistent delivery failure will have occurred when an electronic communication system abandons or otherwise stops attempting to deliver an electronic communication to a customer after a certain number of repeated or duplicate delivery attempts within a reasonable period of time.

This might be more helpful definition than requiring something to be clear and conspicuous or similar providing the Working Group can agree on the bracketed words or suggest an alternative formulation.

And so there's some sense that maybe persistent delivery failures is not quite the right phrase. Maybe it is clear and conspicuous notice of delivery failure. Who wants to have a thought about this? I'm not sure where the – I mean we still have the bracketed language in the initial report...

Steve Metalitz: Initial number and reasonable period of time.

(Graham): Yes was that...

Steve Metalitz: And it may be that those are implementation issues that we can't really set sitting around the table.

But I guess the question is whether people are comfortable with that this is sufficiently clear so that - and again this only comes up in this circumstance where there's an attempted relay of a message to a customer. And there's a persistent delivery failure of that.

So again we did – we did discuss this many times but I guess the question is is there - do people have other thoughts about how to formulate this? Maybe not.

(Graham): Michele?

Michele Neylon: Good afternoon, caffeinated Michele speaking. How is it going?

I think we did spend a lot of time discussing this. Some people may have found those conversations incredibly enlightening some may have found them incredibly boring. I don't know.

I think we - I think, you know, what we have there is fine as long as when this goes to some kind of implementation somebody doesn't go off the reservation and turn it into something else.

So I think the word of caution really would be whoever is handling implementation of whatever gets written into the final policy, the final contract -- whatever the hell it is -- that they are - they keep what's the word I'm looking for? They keep loyal to the spirit of what we were discussing.

Because ultimately MST says it could be down to implementation. But I don't think there's any - it's got any point or any real benefit in us getting back into the weeds on this.

But just, you know, red flag this is important. The wording - the words here were not chosen randomly. Please don't go rewording them just because you think it's a good idea. It isn't.

(Graham): All right fair enough. Thanks Michele. All right that was quick and easy. We're now I think back going to go through the final report with Steve.

Steve Metalitz: Right, thank you. This is Steve Metalitz for the transcript.

So the our last agenda item for today is to go through the draft final report that (Mary) circulated just about a week ago.

And I think if I can just put this - kick this off and (Mary) will obviously supplement this if I - or correct it if it's wrong.

And I think she's basically just plugging into the initial report, the decisions that we made that - the conclusions that we arrived at on the contested questions on the issues that were addressed by sub team one about, you know, escalation of relay and so forth on the issues of sub team two on commercial, you know, used for commercial purposes.

And she basically took the document that we had been - we ended up with in that discussion, plugged it in.

Obviously there may need to be - there will need to be some other little changes in the Sub Team 3 output on Annex E based on today's which is now Annex B based on today's conversation and some Sub Team 4 things that may need to be fixed up too.

But basically this is a what I think of as a near final near complete report. It is neither final nor complete. But soon we want to get to the point where it is done and we can have our consensus call and move forward with it on whatever basis we're able to do.

So (Mary) are there any particular points that you wanted to highlight here or should we just dive into issues that people may have picked up?

(Mary): Maybe I could just supplement what you said Steve which is exactly what happened with the draft final report.

But that obviously it's still not a fully fleshed out document because of some of the things that we've been discussing today notably what used to be Annex E which is now Annex B, that still needs some finalization.

But I think the most important may be substantive points to note is what the draft final report tries to do is to sort of close the circle on what we had as the open issues. And Steve you referred to some of them in your introduction.

So for example the discussion that this group has had that we put out for public comment over escalation or relay requests. There was some recommendations that we discussed after the Sub Team One's work as know in the draft final report.

Another example is the online financial transactions activity discussion. And there's actually quite a lot of text in there that the Working Group also discussed which was based on the co-chair's suggested text.

So you'll see that most of the changes have been to try to put those in. And so you'll see that most of the changes would be in the executive summary as well as in I think Sections 5 and 7 that go into the actual deliberations because those would have updated what the working group has done since May.

Hopefully that's helpful and that's also why some of the Annexes were dropped because they were no longer necessary.

Steve Metalitz: Thank you.

We were so attached to Annex E but we couldn't deal with it in this new incarnation as Annex B.

Okay we'll let me open the floor then if people have questions or comments on this or I'd be glad to get this started if people don't have any particular issues they want to raise.

If you look at the comments that (Mary) put into the redline version -- and I don't know which version we have up - or we will have up on the screen -- but most of the individual issues were the ones we've just literally in the last half hour in some cases talked about like standardized form and so forth.

So I think we've - obviously if there are adjustments they'll have to be made but I think pretty much we've captured those -- they're pretty much as captured in this document.

The one area first area I wanted to call people's attention to is really the section called de-accreditation and its consequences which is Recommendation 21 I think in the new version. It was 20 and the old version.

(Graham): Page 15.

Steve Metalitz: I think it's Page 15 of the red line if that's -- are we on the redline or are we on - that's...

(Mary): I think it's the (unintelligible).

Steve Metalitz: Okay fine, that's fine because this one actually didn't have any changes in it. But (Mary) put comments in there about staff operational feedback.

For example on the de-accreditation, could you scroll down a little bit more in there?

So on -- we're just de-accredited - this is the fourth one from the bottom said de-accredited PP service provider should have the opportunity to find a

gaining provider to work with as sometimes occurs with registrar de-accreditations.

And (Mary) flags the staff operational feedback that a registrar could not be compelled to work with a nonaffiliated provider. So that maybe the analogy with gaining provider is not really relevant here.

And the next one I'll just to put these two on the table was also staff feedback about a graduated response approach to de-accreditation. A set series of breach notices with escalating sanctions with the final recourse being de-accreditation.

And the staff feedback is that this does not appear to be consistent with current compliance – excuse me, the current compliance process developed in consultation with the community for registrars.

The Working Group may wish to consider recommending a uniform consistent approach for registrars and PP providers or deferring to existing escalation compliance enforcement procedures all together.

So these are two that - and I'm happy to have the staff if they have - if they want to expand on either of those. And I just read (Mary)'s summary of them. But those are two areas where the staff asked us to take a look at this based on their, you know, preparations for implementation.

I'm sure the registrars here could comment on this third to last bullet about graduated response and how that differs from what the process is for registrars.

I don't think we're bound to say oh it should be the same as it is for registrars. We could say we think this approach is better if that's what we conclude. But we should, you know, kind of be - have our eyes open if that's what we're recommending.

And so I certainly welcome hearing from registrars on this or others on either of those two points that were flagged by the staff. I think Kathy had her hand up.

Kathy Kleimann: I'm just asking a question and I'm sure I should know this but could someone outline the process of de-accreditation for registrars?

Steve Metalitz: Yes.

Kathy Kleimann: See what you did and I...

Steve Metalitz: And well since is not a graduated response program I guess?

Woman: (Angie).

Woman: James may actually have better feedback for you on this than I do because his feedback was directly from the compliance department.

But I believe that in general some of the compliance department's feedback on this was that, you know, there are escalated breach notices.

I don't necessarily know that the sanctions are different for each one. And also I believe that some of their concerns were about just the notification project when a provider's ultimately terminated or what happens before then.

I don't know if you have any further feedback.

James Bladel: We'll just - is this on? Okay so James speaking. Hi. It's not on. It's on. I'm told that it is on. Now it's on, okay.

So there is a process but where it starts with an initial I guess you would call it a notice of noncompliance. And ICANN has a specific list of materials or

questions that they want registers to address. And if they don't satisfactorily address those or if their response is incomplete or somehow unsatisfactory then ICANN will escalate to a second notice, a third notice and then a breach.

And then breach comes with a public notification of the breach and then a time to cure, a cure window. And then if the registrar doesn't cure then it can be subject to a de-accreditation process.

And those names that they currently sponsor or manage can be transitioned to another registrar, basically put out the RFP to go to another registrar.

Even if the registrar cures the breach but has multiple breaches let's say in the calendar year then when their RAA is up for presumptive renewal they could be – ICANN would have the right to - right of nonrenewal of that agreement and saying even though you cured all of your breaches you had three breaches in a year or something like that.

So I mean obviously as good guy providers we work very hard to make sure that nothing gets past level 1 and doesn't proceed either to level two or onto a breach which is a kind of a public affair.

I actually raised my hand because I had a question and I apologize since I've been in the other room the whole day.

But is it appropriate for a PDP to take what is essentially a compliance operational practice and bake it into the language of the policy?

I mean because the one, two, three breach graduated response that we see currently today is not something that was spelled out in the RAA, it's not something that comes out of consensus policy.

It's actually something that ICANN compliance developed, you know, kind of on its own also through consultations with the community.

So my question is that - and it could change in the future. And so do we really want to hardcode that practice into this policy or do we want to say whatever you're doing to enforce all of your other contracts and consensus policies do the same here as opposed to locking this one down?

And I'm just putting that onto the table and I apologize if it's been discussed already before. Thanks.

Steve Metalitz: I think it's timely to bring that up and I saw (Mary) had her hand up, Volker, Michele.

(Graham): And I think (Amy) too. (Amy) too.

Steve Metalitz: Oh I'm sorry. (Mary) go ahead first.

(Mary): Yes and (Amy) probably has more details but I just wanted to follow-up on that James because even though our compliance colleagues gave us specific feedback like what we're discussing know about specific recommendations one comment that we did here was that this is very, very specific and it may be something better left in implementation because there will be an Implementation Review Team formed from the GNSO anyway which is what we do when we implement policy. So that was an additional general point of feedback.

Steve Metalitz: Thanks. (Amy) do you have something to add there and then we'll move on.

(Amy): Yes. I was just going to add - this is (Amy) again. I was just going to add upon what James said. And just because the accreditation program itself hasn't been created yet, you know, and more flexibility in terms of the de-accreditation process will be good because we see how the process works going forward. If it's baked into the policy recommendation it'll be harder to adjust so...

Steve Metalitz: Thank you. Volker?

Volker Greimann: Thank you Steve, Volker Griemann saying his name for the record. Besides de-accreditation there are also other penalties that ICANN can enforce.

Recently we've seen the suspension of a registrar. Yes? Okay anyway, so that's - so anyway that's one thing that ICANN can also do. so de-accreditation may not be the only enforcement option that I can have. So we should try to leave it open at this stage.

And one thing that we always should bear in mind when looking at consequences is not only the consequences for the provider but also for the provided payee, his customers.

I think those should rather be the focus of our deliberations because they have real-world impact for parties that have - may have no guilt attached to their use of the service but very legitimate interests involved in that. So maybe we should focus on that part instead of the enforcement part.

Steve Metalitz: Thank you. Michele.

Michele Neylon: Thanks. My learned German colleague has and James have both said a lot of what I would've said as well.

I mean the enforcement around contract is best not put directly into the policy. It should be consistent. It should be lots of things but we shouldn't be specifying it.

I think the transitioning of the domains that are - is important to me and that's something that I think we can all agree on.

I mean the registrar de-accreditation process at the moment I mean I – it's something that has evolved over time. It's not the same process now as it was five years ago or six years ago or whatever. I mean it has changed over time.

Again I don't think it's appropriate for us to get into the weeds on it. I think we need to put in something saying I'm not sure exactly how to phrase this but, you know, we should be conscious of X, Y and Zed but not stay ICANN needs to do this and the providers need to do that and, you know, getting into really gritty needy details.

Because as things evolve over time I mean you might end up with a situation where nobody has ever de-accredited or you might have a situation where people have been de-accredited every week. I mean we don't know.

So I prefer to leave that kind of to one side but with a few line items about things that need to be looked at.

Steve Metalitz: Okay thank you, Kathy was next and then Stephanie.

Kathy Kleimann: We may be in violent agreement. You guys can tell me.

Volker Greimann: Oh, no.

Kathy Kleimann: But if we go to a more generalized system I just wanted to point out from a customer perspective -- and I'm looking up at the slides -- that I'd really love to keep and I think it's really important principle and it may be a little different than registered de-accreditation -- the second from the bottom where feasible a customer should be able to choose its new proxy privacy service provider in the event of de-accreditation of its existing provider.

Because I think jurisdiction is going to be important for customers where their privacy proxy provider is located.

So to the - I'd like to keep that as principal even if we generalize other parts of it.

And also I just wanted to go back to the IRTP if I have the right acronym that there's a new footnote that says that in transferring a domain name between providers there may be mandatory disclosure under its new policies. And I don't fully understand that but I did notice the new footnote on that.

So in if we are transferring, if we are de-accrediting a proxy privacy provider are we "transferring" all of those customers and are they all going to be disclosed? Is all their data going to be published in the Whois and can we protect against that?

Steve Metalitz: Okay yes we did have a lot of discussion about that here in the working group and possible ways to deal with that.

But I have Stephanie then James and then Holly. Is there anybody else? Michele? Stephanie?

Stephanie Perrin: Stephanie Perrin. Far be it for me again to disagree because we appear to be rushing towards agreement here on this.

But I think that this PDP was largely set up because of the view that privacy proxy services were a problem right?

So the issue of accrediting de-accrediting strikes me as a policy issue that is fundamental to why we were set up and is part of our charter.

So and plus we've got some really good work into these. I'm sympathetic to getting down to the details and stirring into implementation as it were.

But the kind of policy caveats that we have defined here are policy and they're important.

So can we provide guidance to the implementation folks without necessarily casting in stone how they do it?

In other words accreditation or rather de-accreditation is a critical function. If we're going to solve this problem of the bogus providers then we need to take a firm stand on how quickly we de-accredit and what the scope is.

And protection of the customer is a really important policy issue. Again I don't want to lose this stuff that we've got here. I'm kind of repeating what Kathy was saying.

So can we find a way to not get rid of this but allow for discretion on the part of the implementation committee? Thanks.

Steve Metalitz: Okay so the remainder of the queue is James, James B., Holly and Michele and then I think, you know, we should come back to this question of how if it all we want to change this. And maybe some of this could be put in the form of guidance for implementation but maybe not all of it. James?

James Bladel: Hi thanks, James speaking and I think you've actually lost the other James. I think we just switch rooms so I'm the replacement James and I think he actually is in my chair over at the other room because it's standing room only over there.

So just I think pigging backing a little bit on what Kathy's saying I think we're doing good work here as far as de-accreditation but the real challenge for me I think is going to be dealing with the let's call them orphaned customers, that if the provider is doing something wrong with one client but they have 30,000 clients let's say that the other 29,999 clients are going to be out in the cold here.

And providers are going to be – I'll just be blunt, providers are going to be reluctant to take them on unless they can also make the case that the domain name sponsorship transfers as part of the privacy transfer as well.

So we're going to have to kind of like really think about how this bulk migration of privacy and domain name transfers from one provider to another and what we do in the situation which is already starting to happen now in the registrar space which is what do we do when nobody wants these names?

Because I think those of us who have been a part of this have seen that these names are usually very, very difficult to onboard and not worth the cost per acquisition of a new customer.

So a lot of registrars are saying, you know, pass. Let me know when you have a registrar that's got a million names it goes under. But for right now I'm not willing to take on some of the smaller ones. I'm concerned that we're going to see the same thing happen much faster in this space where people are just going to avoid these things and we're going to leave a lot of folks out in the cold.

Steve Metalitz: Okay. Thank you. Holly?

Holly Raish: James has made half the point. The point about IRTP is in transferring the requirements for verification of accuracy and the problem with doing the verification if you remember that discussion was actually you have to have the information.

So it's rather hard to do it anonymously. And if people remember back to the face to face last year what was discussed may be some kind of if something was verified can you take that as verification and not reveal the details?

And the other was to stress the point that Kathy made which is if we are going – and if we're going to put in people's terms that are required to be there a statement I will or will not delete, give you the option of deleting your name rather than being revealed it's pretty important that possibility is there.

So if we don't allow choice then we're not allowing people to actually read terms of service and pick their provider.

Steve Metalitz: Okay. I'm not sure that that's the same - you're talking about in the case in which a customer is transferred to another provider as a result of de-accreditation?

Holly Raish: Yes. They should be able to make the choice because they will be able to read terms and conditions. They may want the opportunity to be able to just say I'd rather dip out then have my details revealed so that choice should remain.

Steve Metalitz: Okay thank you. Michele?

Michele Neylon: Yes thanks Steve, Michele for the transcript.

A couple of things, okay if the proxy privacy provider and the registrar are one in the same or linked whatever and the transfer of the names is linked to the registrar de-accreditation which is probably the more likely scenario that one would envisage the transfer of the names from Registrar A to Register B wouldn't necessarily involve any unmasking of Whois details because it's a bulk transfer.

And essentially what's happening is in the background Neustar, affiliates whoever goes select from a table were registrar equals IANA ID blah, update table so all those domains are now associated with IANA ID – whatever. And essentially that's what's happening.

It's a database update. It's a database table update. That's all it is, like you have whatever number. It could be five or it could be 1 million, it doesn't matter. Just move them from one IANA ID to the other. And that - there's no reason why that would affect the publicly displayed who is output.

No there isn't. So you can shake your head and wave your thing. I can assure you there is no...

Woman: (Unintelligible) James.

Michele Neylon: No, James is talking about something totally different. What James is talking about is the real and substantial issue of this provider is tiny.

There is no value for me as a registrar for my business to take on those names. That's a different problem entirely. So for example...

Steve Metalitz: No Michele could I just ask a question...

Michele Neylon: Sure.

Steve Metalitz: ...about the scenario you are talking about? So if the Whois information before this whole thing happens is that for that customer is for that domain name is Registrar A is captive privacy proxy service provider.

Register A is de-accredited. And so it switched over to Register B what happens with the Whois data?

(Graham): Nothing.

Steve Metalitz: Nothing. If it still says Registrar A...

((Crosstalk))

Steve Metalitz: ...still says Registrar A even though that's been de-accredited or even the Registrant A has been de-accredited.

Michele Neylon: But, okay for - so thick registries nothing would happen, nothing would change because the Whois data is served by the registry not by the registrar okay? So they – so all they're doing is a change in the registrar that's associated with it.

For thin registries before (Chris) kind of has any minor implosion it would - there's nothing to stop the gaining registrar from just posing, you know, holder information. It doesn't have to be the underlying data.

I mean technically speaking just have holder, you know, holder. What I mean by that sorry, kind of a boilerplate set of data and then to, you know, put in something else afterwards.

But the assumption that you have to – you know, it's mandatory to reveal everything is incorrect in my view. I mean somebody can...

Steve Metalitz: I understand that but in that holder situation is the Registrar B in violation of the future requirement that they not knowingly allowed an unaccredited privacy proxy service provider to register?

Michele Neylon: I'm not going to answer that.

Steve Metalitz: Okay.

Michele Neylon: I was - I don't want to get into that one.

Steve Metalitz: Okay all right.

Michele Neylon: No but I mean just in terms of the risk of X...

Steve Metalitz: Yes.

Michele Neylon: ...that's what I was addressing.

Steve Metalitz: Being revealed, okay thank you.

Michele Neylon: Because I'm just saying the technically speaking that's not - I don't think that's an issue. I think that can be addressed...

Steve Metalitz: Yes.

Michele Neylon: ...without people...

Steve Metalitz: Okay.

Michele Neylon: ...losing their minds.

Steve Metalitz: All right.

Michele Neylon: But the issue that James identified about, you know, the names associated with small registrar whatever in weird country whatever and, you know, that then being of any interest to anybody that's an issue we're facing already with registrar de-accreditation where, you know, it's not worth the headache to onboard them.

(Graham): Just briefly on that if I may this is (Graham) for the transcript. It's not that they're small that they're problematic. It's that if they've been de-accredited as a registrar it's probably because they're pretty poor at keeping records. So the quality of that data is terrible.

Steve Metalitz: Yes.

(Graham): And then you end up with this huge customer support problem that is very expensive trying to find owners for these domains and the proper owners and clean them up.

And I'm sure it's happened – it's for sure happened to us where we've onboard these and we still end up with them with no registrant and we're renewing them every year in case someone comes back because we don't want to let it go if someone cares but it's a mess and I know it's happened to us, I'm sure it's happened to Go Daddy and you, you know, Blackknight's done it. I'm - it's ...

Steve Metalitz: Okay. Well let - we may have ranged a little bit far afield from what's on the screen here. But one question is if you scroll down just a little bit are the first several of these, you know, about being notified and, or how many of these are really things that we should be phrasing as implementation guidance or something like that rather than as part of the policy?

Now I accept that the last one or two may be appropriate for the policy because one of them is when you review the IRTP be sure to pay attention to this issue that - well I don't know if that's policy but that's a little bit different than an implementation guideline.

But are the other ones things that would really fit better as implementation guidelines or should we just leave it as it is I guess is the question?

Do people - Stephanie go ahead.

Stephanie Perrin: Pardon me, Stephanie Perrin for the record. I certainly think that the notification is a policy issue. The decision to make that mandatory is a policy issue as far as I can see.

I mean I don't want to take up all the time to go through this whole list but I think it's probably about 50-50, some are definitely policy issues. So it's entirely appropriate for us to make those.

Where we get into the weeds on the how and when would be in my view the time periods. I'm not sure that that's policy issue.

Steve Metalitz: Okay. The two that were flagged to be a little more precise, the two that were flagged in what (Mary) circulated were the fourth one there, the accredited PP service providers the opportunity to find an gaining provider and then the graduated response. Those were the two that they flagged as perhaps more appropriate for implementation guidance.

But so I don't know maybe the others are fine as it is. Thank you. (Mary) is going to correct me because I think I may have misstated that.

(Mary): No actually you did not Steve. So far be it from me to correct you. I think it was more to clarify that we flagged these two because the way that they're phrased at least when it was read by my operational colleagues either seem to go against current practice or could not be implemented in the way that they thought we might have wanted them to do it.

But even in regard to the others for example in the notification point and I think the registrar if you will correct me if I get this wrong when you send the notice it's published on the ICANN Web site it doesn't mean that everything gets sent to the actual registrant.

So even when we say notification in this report I think one question could be how do you want to notify all of the customers? You can't be sending them the note if you publish the notice on the ICANN Web site. Is that what you mean?

So we can get very granular like this so make the staff suggestion here would be maybe if the working group could identify, you know, say three principles that it's important to have notification of some kind, that it's important to provide an opportunity to find a gaining provider if possible -- things like that.

And then we can take that to implementation and develop things like time periods where to publish, et cetera, et cetera, that would be helpful.

Steve Metalitz: Thank you, that's very helpful. James and did anybody else want to be in the queue right now? Darcy, James go ahead.

James Bladel: Just quickly I was going to ask (Mary) if she based on the recently concluded Policy and Implementation Working Group if that could be any guidance to helping parse this list and moving things either from policy to implementation discussions?

I think clearly for implementation we've got to address the issue of what to do when the registry – the registrar and the provider are affiliated, whether they're separate.

Because if they're separate entities and the registrar is de-accredited the provider really doesn't have to do anything. It's a separate entity and it's not accredited unless we want to link those accreditations somehow that would be a policy discussion.

So I mean we need to kind of map out those scenarios and say like if you're an affiliated or if you're a registrar that loses your accreditation all of your affiliated providers also become de-accredited.

You know, I just wanted to put that out there as something that we need to take a closer look at as far as implementation because that's going to be a really heavy lift with this one.

Sorry to make things worse.

Darcy Southwell: Darcy Southwell. If my memory is right on our calls well I think I feel like we got to this because we were trying to again how we've done similarly in other areas mirror the RAA because most privacy proxy providers that we're aware of are also registrars.

And maybe we went a little overboard in adding implementation pieces. And so maybe to (Mary)'s point if we could get to the basic principles that mirror the RAA policy and let ICANN figure out the implementation that works best because I'm sure there's learning experiences from RAA de-accreditation that they've already gotten to.

(Mary): Yes so just because and James asked the question that certainly the recommendations from that working group do envisage and encourage, you know, future working groups to provide implementation guidance where that is appropriate.

So I think this would be one area where it would be very appropriate. And maybe something like what Darcy just said could be the opening sentence and then we can put a few more specifics in there.

Steve Metalitz: Okay. So we're going to continue on the queue with Stephanie and Kathy. But let me just say so we have a suggestion on the table here to boil this down into principles that would - and they could be accompanied by implementation guidance but that we haven't perhaps done that clear a job of distinguishing those in what is up there on Number 21 right now.

So one question is who would do that if we decide to go that route? So Stephanie, Kathy and I think we need to move on to other parts of this final report.

Stephanie Perrin: Thank you, Stephanie Perrin for the record. And I'm just going to put this on the table. I realize it's probably intensely unpopular as a concept. But it's certainly my view that the contract sets a lot of policy that has not already been developed through a PDP process, the RAA contract particularly with respect to law enforcement requirements and data retention. I could go on and on.

So I'm not comfortable with using it as a model as if the RAA was okay in terms of policy and implementation division.

The fact that it's a contractor between two parties does not mean it's not setting policy. So we don't want to see that repeated with the accreditation agreement here. Thanks.

Steve Metalitz: Thank you. Kathy.

Kathy Kleimann: Kathy Kleimann. Steve when you circled back to highlight what it was that the compliance come back to us on it was only one or two bullet points I think.

Steve Metalitz: There were two and I think (Mary) corrected it that actually weren't necessary. One was they didn't think it could be done and one was different from the way they do RAA.

So they're not necessarily the same thing. But it was the third – it was the fourth and the fifth ones, the de-accredited PP service provider should have the opportunity and the graduated response.

Kathy Kleimann: So maybe we can just focus on those but it sounds in some ways like we're rewriting the whole notification. And I know we spent a lot of time on that.

I heard something I just wanted to flag it that publication on the ICANN Web site would be notice to customers. No, no, I hope not because customers

aren't reading the ICANN Web site so I want to make sure that's not what we're thinking. That wouldn't be sufficient...

Steve Metalitz: Yes. But there's - no the question is how would you notify them since we don't...

Kathy Kleimann: I'd send them an email.

Steve Metalitz: We don't have their email addresses.

Kathy Kleimann: But the..

Steve Metalitz: Because all we have is the proxy provider's email address.

Kathy Kleimann: But the provider can send it through. We have lots of provision...

Steve Metalitz: The provider that you're de-accrediting?

Kathy Kleimann: Yes.

Steve Metalitz: Because they're not provoked, okay. Yes I don't have an answer to that but I think that's a good point.

Kathy Kleimann: But the publication on the ICANN Web site is insufficient...

Steve Metalitz: Okay, (Chris)?

Kathy Kleimann: ...for letting customers. They'll have no idea the ICANN Web site exists.

Steve Metalitz: (Chris) has been waiting patiently.

(Chris Colene): (Chris) (unintelligible) for the transcript. It is the registrar that has the service that our underlying data is provided under RD contract or (unintelligible).

If memory serves the PP service if it's not an ICANN accredited registrar also has to provide that information under Iron Mountain (audible) a process of escrowing the data.

I assume that the lawyers who are signing up to this are providing the correct customer information in the data escrow to ICANN in which case any notification could go out from that data were now de-accredited.

Steve Metalitz: Okay so that might be an answer to Kathy's concern.

(Chris Colene): (Unintelligible) the point. On the...

Man: Into the mic.

(Graham): The mic please.

(Chris Colene): If the PP providers are not registrars surely this contract is making provisions for providing the underlying escrow data so Iron Mountain like we have to. Otherwise what's the point of the accreditation if you will never know who the customers are because there the lawyers would just simply say oh it's us.

Michele Neylon: This is Michele trying to parse what (Chris) was saying. I think - okay so I think what (Chris) is trying to address is okay in the current environment proxy privacy provider and registrar are either A, the same entity or B, closely affiliated.

However should there be an accreditation regime then you open up the possibility that there would be companies providing proxy privacy work who are accredited who are not in any way linked to the registrar of record. Is that correct (Chris)?

(Chris Colene): Yes.

Michele Neylon: Okay. So just, you know, nod if I say something wrong or okay. So...

(Chris Colene): (Unintelligible).

Michele Neylon: ...the - at the moment for registrars if we escrow the underlying data not what is in Whois.

So if for example you do a Whois look up on a domain name that's using Whois privacy limited which is our privacy provider you will see one set of data what gets into the escrow files with Iron Mountain is a different set of data. It's there - it's what we have on our backend.

So what (Chris) is asking I think is that if there is a - if our proxy – if our proxy privacy providers were not affiliated with registrars then surely they should also be escrowing the underlying data to Iron Mountain or somebody else or you will have the same situation that you have now.

However this is not what he said but I'm going to add it. This is to the point you raised if they're being de-accredited they're probably doing a bad job of meeting their requirements and take everything else. So that's obviously not a problem that anybody's going to be able to solve but I'm cognizant of that.

Steve Metalitz: Yes. This is an important point because in fact I don't think there is anything in these recommendations that says they have to escrow it.

What there is is a requirement that they verify and re-verify in the same way that they would if they were a registrar. I mean I'm paraphrasing here obviously. And maybe that's the place where we also say and escrow the same way as if they were a registrar or affiliated service.

But I don't think that's in here right now. I mean I may be wrong about that but I don't think it's in here.

And maybe it's a gap that needs to be filled because I think when we're thinking about the underlying data on the customer which it never is appearing in Whois has to be kept current and, you know, inaccurate for various, you know, either for disclosure or for other – or for purposes such as a transfer or de-accreditation needs to be accurate.

But I'm not sure we've actually extended that to escrowed as well. And so I don't know whether that's something else that we need - to needs to be addressed.

But I'm finding that – I'm trying to figure out what is our way out of the cul-de-sac that we seem to be walking into here on all of these points.

It sounds as though perhaps a small group needs to look at this and figure out first which of the things that are more appropriately dealt with as implementation guidance.

And second are there gaps here that need to be filled? And third are there - is there a better way to formulate as a couple people suggested the principles that we think are important -- it's another way of saying policy -- I guess but the basic principles and then recognizing that we're not - we cannot get into the implementation details.

So I wonder if that's a feasible way forward and if so who are our volunteers to do that?

But Holly had her hand up. I know she wasn't necessarily volunteering to do that but do you have a comment you want to make on this? Go ahead.

Holly Raish: I'm thinking about escrow and perhaps we should put that in as a kind of high-level principle anyway.

But I'm cognizant of the fact that given that we are - we've lumped privacy and proxy into one so we're also saying to the lawyers if the lawyers are privacy proxy providers which they will be or I just remember Volker's illustration probably a year or two or three back however long ago saying if I actually am the privacy proxy server for my aunt because I can do it in my backyard or whatever he's going to have to escrow data as well.

So I mean where does that requirement sit because in theory it should be there?

Steve Metalitz: Well that I think goes more to how expansively we design proxy providers rather than what should be the obligations of those that we would all agree are proxy or privacy providers. So pardon me?

Holly Raish: So then are we not going to cover some? There's going to be some...

Steve Metalitz: Well this is, you know, we've spent a while earlier today on that discussion as to whether...

Holly Raish: Yes.

Steve Metalitz: ...there should be exclusions or - and also what were the practical implications of that. Are we fantasizing that there will be an ICANN compliance action against Volker over his aunt's registration?

So I don't know. May - you know, it may not be a bad idea but, you know, I'm not sure how realistic that is but.

Okay we - I don't see any volunteers here yet so I'm just wondering what people think would be the best way to address it?

I think there have been some issues raised here that point to some defects in Number 21. And then the question is how do we resolve those?

I don't see any bright ideas for that right now so I'm going to move on to another aspect here that I think is quite relevant actually to something we've – we talked about earlier.

And maybe not any fundamental change in this but there may be some need to look at this. And if you look at Roman Numeral III which is on Page 71 of the redline I'm not sure where it is in the clean copy?

It's - I guess it's called Working Group Recommendations Specific to LEA requests. I'm not sure if we found that. You got it. It's on the screen, thank you.

So and here's, you know, the changes that have been made here are, you know, we've got this illustrative disclosure framework and so forth.

And it's really just a paragraph now explaining why we don't have anything for LEA requesters or requests made by other types of third parties due in part to what the working group believes are likely to believe important differences and a relative lack of expertise.

So one question is do we want to be a little more pointed here and say we think there was not an adequate level of participation from people who are experts in this area on our working group and that we, you know, we've had a couple of different formulations about what we want to say going forward as to whether this must be done, should be done, encourage it to be done, what do we want to say here about filling in these gaps?

Now we, you know, we may have two or three elements that we think should be in those disclosure frameworks but the overall disclosure framework we're not able to do.

So I guess one question is what do we want to say is this the place to say, you know, explain why we haven't done it and to say what we think needs to be done? Yes go ahead.

Lindsay Hamilton-Reid: Hi. This is Lindsay Hamilton-Reid for the record. Can't we just say that we think what's in place currently for disclosure to LEAs is sufficient? They need a court order? They come to us with that we'll give them the information. I don't know that we need to make up anything else for that.

Steve Metalitz: Is that – well - one question is whether that is the policy of all privacy proxy service providers. I mean that may be one providers policy now.

And we're not putting in a standard about this but the question is would there - should there be a minimum standard? Again we're not going to do it but do we call for one to be developed and so forth?

Stephanie?

Stephanie Perrin: Stephanie Perrin for the record. To my mind, well A, I would never sign on to something that he said we didn't have expertise in the room because some of us have been fighting these guys off for a long time and figuring out due process that we insist on whether through legal requirements that we're administering or the registrars deal with this every day.

So I don't think there's a lack of expertise. There's a lack of the other side coming forward and asking for what they want.

And I don't think it's fair to have them come in at the hind end through the GAC for instance and tackle this thing and tack something on. I don't find that to be acceptable but I just want to say that right now.

However I think there's a really substantial difference between the two parties we mentioned, namely law enforcement where we can ask for the lawful

authority and the warrant and all the rest of it -- and many do -- and the private sector cyber security guys who do not have that ability.

The fact they didn't come and show up here is I think more of an issue there. We can hold the law enforcement guys to play by the law that applies.

But I am scratching my head about the cyber security guys because it does appear that they get things informally not necessarily when totally proven if you know what I mean. I mean some things are self-evident to the registrars and there's no question.

Steve Metalitz: Yes I think that's probably right but I - and I would agree with you that we're a little bit too diplomatic in this language here and it isn't - we have some expertise but we don't have the full complement of people that need to be engaged in the discussion.

And that's true I think with both of those groups so maybe we should say that Michele.

Michele Neylon: Michele for the record. Yes I tend to agree. I mean this -- it's not up to us to try to channel what law enforcement want. If law enforcement wants something they need to engage through the proper channels.

They need if there's a comment period open for our report which of course there will be then that is the opportunity for them to come along and say we want X, we want Y, we need X, we need Y.

Now we may not agree with what they're asking for obviously but that's the proper way to do it. It's not for us to try to act as a proxy for them.

Now speaking to what companies do and don't do that's a different thing entirely. I mean, you know, our -- we as members of the ISP Association of

Maryland have certain arrangements in place. Other companies have other arrangements but generally speaking we want to respect due process.

And a key point here is if you fail to respect the due process any evidence they get won't be useful anyway so it's in their interest to follow due process.

Steve Metalitz: Yes I don't think anyone's suggesting that we try to channel either the law enforcement or the cyber security people. And I think Stephanie's point is well taken we can't, you know, we need to actually have them engaged.

But the question is what do we say in the report about this? So and let me just see if anybody else has other comments that they wish to raise on this topic.

Kathy go ahead.

Kathy Kleimann: So circling back to Sub Team 4 there are some comments about LEA that might be brought forward here which is that, you know, should somebody take the issue there are that it won't be, that the - that if a template is created for law enforcement it should be different than intellectual property because there are different principles involved. But that seems to be consensus item of our group.

I was wondering in the big picture whether we set up at the risk of adding more work whether we set up a set of principles for how new templates, request templates could come in, but this is in a mere implementation issue that if a new group is coming through with a type of request template that a stakeholder group, maybe not a full PDP, people who are procedural experts in the GNSO will correct me on the process but that a multi-stakeholder group has to be convened as was done with the IPR template to review it?

Can we make that a principle that we agree to that it's is not just a mere implementation issue, that there's lot of give and take involved and both LEA

and private law and private security -- stuff like that? Does that make sense?
It's getting late.

Steve Metalitz: Do you want (Mary)? Go ahead (Mary).

(Mary): So can I say something in response to Michele first? I Michele I don't know that I heard you correctly but you've talked about a comment period for our report?

Michele Neylon: We've had...

(Mary): Yes we've already had it. So we're not going to - just I just want to clarify for everybody that we would not have another public comment period for the final report. It would go directly to the GNSO Council unless it's significantly different from what we had in the initial report which it doesn't appear to be.

So that's just a point of clarification.

Then to Kathy's point I think the question is if this working group were to recommend that there be a process to create such a framework for law enforcement that how would that be done?

If that's policy development work it would be done through a policy development process. It, you know, technically it's something that is within the remit of this group but the group would state its reasons to say why it's not coming up with it and you recommended it. Then it would go back to the GNSO council who convened that process because it would be policy.

Steve Metalitz: Okay, thank you. Are - other comments on this topic?

Then where I think we are is that on this particular point is that there does need to be some redrafting of this paragraph or whatever it is.

And I think the staff has heard, you know, the interest in saying a slightly fuller explanation of why we didn't put these forward except for very limited parts of them and what we think needs to be done going forward.

I don't know that we need to get into too much detail about that but the point that it is not simply an implementation issue. It's a valid point. So we'll figure out how to express that.

Let me ask if - you okay?

Man: Yes.

Steve Metalitz: Let me ask if people have other things that they've seen in looking at the draft final report other questions or comments?

I mean I had a few wording changes and wording issues and we could get into some of - we could get into those now or we could just have a process for, you know, for doing that on the list. I hear some people supporting a process.

My only concern is I think we don't want it to be a protected process so and I know that probably over the next week we're not likely to send too much to the list here. But there are just a few of those that I think we probably need to take a look at.

Okay so are people generally satisfied with the draft final report as far as they've reviewed it and obviously there would be some changes based on the discussions earlier today. But do we - are we basically on track here?

Michele Neylon: I still think that the final report would do good in considering alternatives to new accreditation program. And I must admit that I've been negligent in providing these alternatives myself as a suggestion.

Nevertheless I think other models such as certification or review process on about system or a best practice solution might fulfill the same objectives that the accreditation programs fulfills without all the overhead that the accreditation program brings with it, the additional cost to ICANN to the community that this process will bring to it and ultimately to the customers.

Steve Metalitz: Well I'll just give my personal reaction. And I think after two years is too late to raise that as part of our report. But it's obviously something that could go in a separate statement if you wish to do that and if others wish to be associated with it.

(Amy) go ahead. I'm sorry (Amy) and then Kathy.

(Amy): This is (Amy) again for staff. And before this session is over staff just wanted to again raise our concerns about how generally some of these recommendations would work with respect to unaffiliated providers especially related to Whois (unintelligible) and abuse reports and things like that where something may have to be done with respect to the Whois information.

Because if they're not linked they don't necessarily have access to that so we just, you know, thank you.

Steve Metalitz: Let's come - let's hear from Kathy and then maybe we can come back to that if there are specific areas where we need to look at that?

Kathy Kleimann: Okay. I think you're getting a series of disconnected comments if that's okay so I'm not commenting on what Volker said which is very valid.

In terms of the edits, you know, we've had this for less than a week. You don't want, you know, I'm thinking that there are places where it's present tense where it needs to be past tense now.

I'd love to see (Mary) a lot more links to the sub teamwork. There's a lot of work that's been done now with the comment templates.

And maybe I didn't - maybe the version I had deleted them by mistake or picked it up, so making sure that all those commented plates and reports and summaries are there. Historians will thank us later.

And again if they're there I apologize. In my version somehow they're - a lot of that's deleted.

So I just create a process if I see dangling footnotes I mean just weird things. Again it could just be my red line that came out, so a little more time and we'll help you with a little editing if you want to help. If not...

Steve Metalitz: Okay. (Unintelligible). Did you want to say anything?

(Mary): I'm happy to receive suggestions and this and comments because this has been a protracted process and obviously editing a lot of different documents so this is far from perfect.

I think for the Sub Team work I - this is a question I would have for the full group that normally speaking we would refer to the fact that the working group has you sub teams which we do in this document quite generally.

We do put in links to the wiki pages where all the drafts and all the recordings are. But we don't put typically all the documents in the report as well.

I think, you know, one particular concern I would have with doing that here is that because there's quite a lot of documentation it would make the report really, really long.

So we could highlight in some sort of annex for example number of meetings or how many reports or what those reports. I repeat the links there. But I think

if we want to put in all of the summary documents for all the sub teams that will actually be quite a lot of documentation.

Kathy Kleimann: Sorry that's not what I'm suggesting. Just that again the version I'm looking at some of these links to the community wiki that were pointing to the Sub Team work appear to be deleted. That may or may not be true is just what's in my version.

So just that one of the purposes of this final report is to know we have 21,000 comments -- comments, petitions, signatures -- however you, and so here are the summaries, here are the reports. Go find them in the links just to make sure we flag all that stuff because that's really what - why we get to go to the finals. We had all that comment and we processed all that comment.

Steve Metalitz: Okay are there other issues the people want to raise there? If not I want to turn to (Amy) for – and to (Mary) actually to help us figure, you know, identify what are these other operational areas that where you would like to get some feedback?

You mentioned who is labeling? That's our Recommendation Number 4. We discussed that briefly earlier today and agreed that to leave that unchanged.

Domain name registrations involving PP service providers should be clearly labeled as such in Whois and we recognize that there are implementation questions that arise from that. We have a footnote that says that.

So is there something beyond that that you wanted to raise in the context of the unaffiliated service providers? I'm just picking up on that because that's one of the – in the short list you just went through that's one that I heard and I was able to find the recommendations. So if you could spell that out a little bit more.

(Amy): Sure and this is (Amy) again. Our question that we have is I mean and the recommendation is written in the passive voice. It doesn't say who's responsible for the labeling.

And in the case where the privacy proxy service is not affiliated with the registrar it could be a situation where the customer is putting in the information.

So the privacy proxy service couldn't ensure that the labeling's happening.

And so we're just trying to figure out how the working group envisions that working. Is that going to be an obligation for registrars to include an option for it to be labeled and, you know, what that means?

Okay. That's a good question. Any people have responses to that? Michele?

Michele Neylon: Thanks, Michele for the record. No, this is actually a very valid question.

I mean if we as a registrar own another company or are directly related to another company that it's pretty simple, pretty straightforward for us to do things to make sure make sure there's operational issues but we can address them.

If they're completely unaffiliated with us then that's going to be more complicated. It's not impossible technically speaking and but I'm saying that speaking in my – sorry, speaking entirely my own personal capacity not representing anybody other than myself and my own company before anybody thinks I'm speaking on behalf of all registrars.

But technically speaking I suppose just thinking off the bat it would be a bit similar to say flagging the reseller as is in the current Whois spec -- something along those lines.

So maybe that would be something where if Company X comes to me as a registrar, Company X unaffiliated with us comes to us as - and says we are a proxy privacy service provider, here's our I don't know, accreditation or whatever the hell it is from ICANN, we are accredited then we - maybe we're talking about putting some kind of flag in the system to say I don't know proxy privacy provided by entity X.

I don't know I'm just reacting off the hook. Somebody could come up with something saner. But that I think might work but it is a very, very valid point because if there's no connection between the two entities then you're right it's not automatically going to happen. And assuming that it will is an incorrect assumption.

Steve Metalitz: Other...

Michele Neylon: (Amy) you look like - does that help you at all?

Steve Metalitz: Other comments on this? And the only thing I would add and, you know, again where does this fit into the overall structure?

We have a provision in the RAA that says that once an accreditation system is in place the registrars won't knowingly accept registrations from unaccredited service providers.

So the - with the system you're describing is a way of trying to implement that to say if you are an accredited service provider, you know, sign here and give, you know...

((Crosstalk))

Michele Neylon: But bear in mind that I did invent that entire thing within ten seconds so...

Steve Metalitz: No and you're very inventive. But all I'm saying is that when you asked the question who's responsibility it is I mean at some level it's the registrar's responsibility because they're the ones that have the obligation not to knowingly accept registrations from unaccredited service providers. So but I think this is a very valid implementation question. I'm not sure we have any further insights beyond what Michele has offered on this.

Were there other issues (Amy) that you wanted to give feedback on?

(Amy): Yes and I don't have the recommendation numbers in front of me but the next one is for reports and abuse. There are certain requirements to have an abuse contact for the privacy proxy service.

And, you know, again with the unaffiliated provider they can relay their abuse report if that's - and what's warranted in the individual circumstance.

But if it's something more serious where the domain, you know, if it needs to be disabled or something if it's in unaffiliated provider how are they going to do that I mean or how is the obligation going to play out for them to do that?

I mean they can go to the registrar but then it's really a registrar obligation and not really the privacy proxy service doing that.

Michele Neylon: Since you're looking at me directly in the eyes (Amy) -- Michele for the record -- I'll answer you.

I think, you know, if the issue is -- and I'll choose my words carefully here -- immediate - is something involving immediate harm then if it's something that's problematic that's serious surely that merits them going directly to the registrar of record to get - to do something. I don't know.

And maybe the registrar of record needs to then go back to whoever if it's (unintelligible) of doing so.

But if it's a matter of suspending the domain the registrar can do that. They proxy privacy service provider cannot suspend a domain name. I mean technically that - it's impossible for them to do that. They don't have that ability.

Because all they control is Whois data. They have no way of I'm sorry by Whois data I mean the contact data that gets published in a system we currently call Whois, not anything to do with DNS records or anything like that. That's a completely different thing.

So how, you know, if you're talking about domain x.whatever is being used to disseminate malware it's a command control, it's something that is putting and spreading nasty crap on the Internet than the registrar is probably a much better point of contact for that in my personal opinion not speaking for anybody other than myself.

Steve Metalitz: Okay other comments on this? No, okay.

(Graham): I think Michele is right.

Steve Metalitz: So again and some of these are - I mean, you know, if they have a registrar - excuse me, the provider has to have an abuse point of contact. But what would be followed for an unaffiliated one might well be different than for an affiliated one would pretty much have to be.

But again remember a lot of our focus has been on relay and disclosure. So this is the portal through which you would seek those things and there the privacy provider should be perfectly capable of handling those, you know, if they meet the minimum standards.

Yes. I don't know if there were other issues that you thought needed to be raised at this point or not?

(Amy): This is (Amy) again. The only other one that we flag immediately – and this kind of goes to the same thing -- is the - for the publication requirement like in the event that the Whois information needs to be published in Whois if the unaffiliated provider, you know, how they could make that happen potentially especially if the proxy proxy customer is the one that put in the information their – themselves.

Within the case of a privacy service the customer would be, you know, the registrant and may have control of the account. And so they may - the service may have a hard time updating that at least in some certain circumstances we were just wondering, but...

Steve Metalitz: Okay. Well, so if – if you're kicked out of the - an unaffiliated service how does it work differently than if you're kicked out of an affiliated service?

Obviously the latter is easier to see how - what the steps would be. So again there's an implementation issue there, any comments on that?

All right well unless there are other issues regarding the draft final report what I'd like to do as we sum up here -- and I don't know whether since we're actually finishing up a few minutes early whether our cocktail hour will be available -- but we'll look into that.

We do have several pieces of homework here. This one piece of homework is – oh, I'm sorry (Paul) go ahead.

(Paul): if the cocktail hour is not available now we'll have to keep working on the program.

Steve Metalitz: Yes. I have about 23 editorial suggestions here in the draft final report. So we actually have - well I think we've accomplished a lot today and we're very

close to the staff being able to move from a near-complete near final report to a complete final report.

There are some areas where we need to give them some more guidance. One that is addressed to everybody is this editorial side. And we obviously need that information quickly.

I'm not going to set deadlines here because I think we need to discuss that with (Mary) and the co-chairs and figure out. But that is something everybody's going to need to take on and quickly.

Second we - going back to our discussion this morning I think (Paul) is probably on the hook to come up with a specific proposal for how you would phrase a exclusion of lawyers and law firms and then we can look at that.

And we had a good discussion on it. I would hope that we can again focus on the practical side of this and how would this work in practice.

Is the current situation where we don't have a specific definition and don't directly address that question is that sufficient or can we come up with a clearly focused carve out exception -- whatever you want to call it -- that would make the situation better? So that's one point there.

I think on Annex E again I think we're - there are a few things that (Todd) and Kathy will polish. I think the one big area that we don't have a agreement yet is on the Annex to the Annex in terms of dealing with abuses or misuse of the information that's obtained.

And so we need to think about how to deal with that. And it's part of a larger picture of, you know, penalties for misuse. But I think this is a good way to approach it through the area where we have a very concrete pretty detailed framework that we're pretty well satisfied with but that this is a missing piece that we need to get done.

We also have several areas where again we've identified some features that should be part of the disclosure frameworks for other types of requests and that will be put into the draft final report.

(Mary) I don't know if - you have been taking notes so I don't know if you have any other homework assignments that we came up with here that we need to have people think about.

I know one is on this what we just spent time talking about the Recommendation 21 and the - which are implementation issues which are really principles that need to be in the policy framework as far as de-accreditation.

And I guess I would throw the escrow question in there too.

So I would really like the people that are experts on this -- and that group definitely does not include me -- to give this some thought come up with some specific suggestion on how we need to change if at all how we need to change that Recommendation 21.

Because I think we found some areas where maybe it's not quite right as it stands right now. Maybe there are things that are really more implementation guidance then and should be labeled as such. Maybe those are other things that need to be elevated a bit more on that.

So those are some of the things that we need to do. And I guess the one thing I'd like to ask (Mary) to address just briefly is once we - because the question's come up about the comment period or what we do. So if you could just talk a little bit about what are the next steps once we have our final or complete final report rather than our near-complete near final report what happens within the group and then going up to the council?

(Mary): So thanks Steve. And I noticed that you started calling it the near final report which is great because when you, (Graham) and I started talking about this I think I called it a gappy final report because of the gaps that we had at the time.

So what I have on the screen now is the updated work plan because I thought that might be helpful for folks. And I guess I need to scroll down to the next page. Give me a second. And this is somewhat updated from the last version that you saw which may have been I think a couple of months ago.

But the date I wanted to highlight there is the last two dates the one in blue and the one in red because given the progress that we've made recently especially today if we can tie up all of these loose ends and fill in the gaps that we've identified and that Steve has summarized then we would have a packaged final report that everybody is happy with.

But we would also the need to do that consensus call that the chairs would have to ask everyone to make sure that the group that you represent in the GNSO, you know, that that's a position or a recommendation that your groups are fine with.

So one of the things Steve I don't know if this is what you had in mind but just to mention that at the moment the way the report is drafted there is a cautious assumption that all the recommendations will be consensus recommendations.

But even if they are then obviously under the working group guidelines of the GNSO there's different levels of consensus. So we would need to have a little bit of time to do that consensus call and maybe adjust the language in the report so that we can say, you know, Recommendations 1 through 9 are full consensus, ten is consensus, 11 to 21 are full consensus.

Along with that obviously in some previous efforts where there has not been consensus recommendations there's the opportunity to put in minority statements that we haven't heard much of here. Like I say the hope is that we will have all consensus recommendations of whatever level.

But the time-wise would be that if we can get through our work and even if we can get through those consensus calls and the designations which will be made by the co-chair then the hope is that we would be able to send the final, final report directly to the GNSO Council in time for its meeting in December.

And that then represent the first opportunity for the council not just to discuss the final recommendations but to take a vote on whether or not to adopt the recommendations that we have.

Obviously on the council end they have a custom where if there's an opportunity to defer voting on recommendations for just one meeting and that's the council's prerogative to do so, that could happen if for example they felt that they or certain groups needed more time to discuss a particular point or other.

So we're looking at the earliest action by the council if we do our part in December with the possibility there might be put off for one additional meeting.

(Graham): James is in the queue and I think he wanted to ask a question.

Steve Metalitz: Go ahead James. And if anybody else has a question or a comment please...

James Bladel: Thanks, just an observation I guess. I don't know if it's a question or a comment but just that we've made a number of - and I've only been here for like the tail end of the last couple of hours. But we made a number of discussions of items that would need to be brought up as part of an implementation plan.

We just finished one PDP implementation for transfers and then we're working on another one that took 18 months and was probably about 1/6 of complexity as what we're doing here.

So I just want to make sure we're setting the expectation correctly that if this goes to council in December and it's approved by the board in January that doesn't really kind of put us on a fast track.

The implementation on this is going to be a very heavy lift, just an observation.

Steve Metalitz: I think it's a very apt observation. And one question that has come up here repeatedly as we've talked about the timeline is the fact that the interim specification in the RAA expires at the end of December 2016. I think that's correct.

So, you know...

James Bladel: January 2017...

Steve Metalitz: January 2017.

James Bladel: ...with an option to extend that for registrars can - if something is...

Steve Metalitz: Okay.

James Bladel: ...process and workings.

Steve Metalitz: All right but let's be aware of that. And I guess I'd, you know, we need to look, have a little better understanding of how that would work. But that is - we've always recognized that as a constraint on what we do.

And I think many of us would very much have liked to have been at the place we are now several months ago. But we're where we are now.

And I'm encouraged that if we can meet this timetable which is still ambitious. It really means that all that homework I talked about has to be in. We'll set some actual deadlines but it pretty much has to be in before 6 November and that's not very far off. That's a couple of weeks.

So, you know, we need to keep things moving along. Thank you. Holly?

Holly Raish: Holly Raish. Have we captured what we said about the implementation because a lot of the discussion today will be probably really helpful for an implementation workgroup?

I mean I can think about the usual charter documents and that sort of stuff but. Because we've actually put a lot of thought into this and a lot of discussion I would hate to think that a lot of that is lost and that the Implementation Working Group does not have the benefit of our discussion.

Steve Metalitz: Well I'll let (Mary) answer that but they certainly will have the benefit of our discussion. They'll have the transcript of this and it will be as we said one thing we still need to do in the final report is which are things that ought to be implementation guidance in the final report and that's why I'm asking for people especially in this area of de-accreditation people the know what they're talking about to help us with that.

(Mary): So this is (Mary) for the transcript two things and thank you James for bringing up that point. I omitted to mention that.

But in response to your point Steve in terms of the deadline for the what's now the interim specification in the RAA, the language of the specification has, you know, any sort of changes to that to be up to the, I guess what is

called the working group but essentially is the negotiating group within the Registrar Stakeholder Group.

So that might be something for the Registrar Stakeholder Group to think about whether it makes sense to work with ICANN on an extension of the time.

It's not something that this working group or the GNSO Council can request or we can request but we can't mandate that.

So this is not something we can do. I'm just bring it up to say who would have that responsibility for if need be changing that expiration or doing something to accommodate the implementation work that's going to need to be done to replace the specification. And that's all I'm going to say about that.

In relation to the implementation work Holly, James referred to the work of the Party and Implementation Working Group a while ago and one of those recommendations that the council now adopted is that it will be mandatory for every implementation of GNSO policy to have an Implementation Review Team except in exceptional circumstances.

And that team will work much as some of the ones that some of you might have been on recently would work. There would be a call for volunteers for example that would also be directed very specifically to the members of this working group so that even though this working group will no longer exist as a working group the idea is that having gone through the deliberations you would be in a very good position to advise on implementation.

And although then implementation will be led by GDD staff because that is an operational aspect of the work GNSO policy staff will be there to assist with implementation as well. So there's some continuity and so hopefully that helps.

Steve Metalitz: Pay no attention to what's going on behind me. Let me see, no, in light of that - thank you for that response and let me see if there are other questions that people have about the next steps because we have we – we accomplished - I think we accomplished a lot today. That's my personal viewpoint. But we obviously still have a lot to do and not a lot of time to do it and Michele has a...

Michele Neylon: Thanks Michele. Just okay putting my chair sorry, putting my hat as chair of the Registrar Stakeholder Group on yes, I do that sometimes Volker, don't look so surprised.

(Mary)'s last intervention triggered that. So here's the - my reading of the 2013 contract means that any of those things have to - would have to be triggered by the chair of the Registrar Stakeholder Group and we don't have a negotiating team kind of sitting around in the corner twiddling their thumbs waiting for ICANN to ask them or us or whatever to negotiate something.

We did put together a negotiating team for the 2013 contract. Whether that was the best team in the world or not is - or how they were chosen is another conversation entirely.

But what is important – no James don't worry. You were wonderful. You were wonderful. No but the pertinent question would be at what juncture if we – if we're all conscious that the current timeline as specified in the contract is simply impossible to meet because just, you know, following the timeline – and there's no way to do it. It's not that we are trying to avoid it. It's just not going to happen.

At what point does the chair of the registrar's who currently happens to me do I need to do it or do I let – punt to my whoever's replacing me?

Steve Metalitz: (Mary) I was going to ask who that question was directed to but I'm – (Mary)'s going to respond so go.

(Mary): So, I'm sorry if I said negotiating team because actually what I meant to say in my head was Working Group.

Because the specific language basically says that any extension of the specification will have to be mutually agreed by ICANN and they Capital WG Working Group which in the area basically means and Michele I hope this is somewhat good news for you.

It means representatives of the applicable registrars and other members of the community that the Registrar Stakeholder Group appoints from time to time to serve as a working group to consult on amendments to the applicable registrar agreement.

So that may at least allow for some room to develop your working group.

Michele Neylon: Okay just...

((Crosstalk))

Michele Neylon: But I think the question I'm trying to get an answer to -- and I'm not being facetious about this. It's a genuine question.

If we are -- have looking at the timelines are going like we're not going to make that deadline -- and I'm sure people recognize that -- do we need to formally go to ICANN now and say, "Hey, we're not going to meet this deadline, can we request an extension?" Or is this something we need to wait three or four or six months or whatever to do? I'm just - that's what I'm asking really.

(Mary): And I if I may Steve I think that this is would probably be a good time if the feeling amongst this working group as well as the Registrar Stakeholder

Group is that the timeline is to say the least too ambitious so that would be my advice.

James Bladel: So just a quick note as the - and thanks by the way, a thankless two years out of my life working for you on that.

Michele Neylon: Dude I said you're awesome, come on.

James Bladel: But is the evil architect of the sunset date of January 1, 2017 I can tell you that the intention was not to be a stick to hit this group or punish this group or to be an artificial finish line. It was really intended to the concern was that the temporary would become the permanent that ICANN would be slow off the mark and that we wouldn't convene this work and that we would just kind of be happy with the temporary be coming indefinitely permanent.

And so the goal of setting an expiration date was to spur this effort on. And the fact that we're nearing completion I think that is exactly what it was intended to do. And I think that we should extend it if given the opportunity.

I don't think that the sentiment among registrars was not, you know, get it done by this date or we're off the hook. I mean that was not what we we're trying to put into practice.

What we were trying to say is don't let this temporary placeholder policy become a part of our culture and carved in stone. Let's get a community thing going. And I think that's what we've done and we shouldn't be afraid of that deadline.

(Chris Colene): (Chris Colene) for the record. So listening to that basically it's asked that can vote it as an extension now is that what you're saying and then ICANN will take that as being the working group is requested that extension and approved it?

(Mary): I'm looking at (Amy) because I think that that's the approach for the Registrar Stakeholder Group or whatever group represents the Working Group to approach ICANN and to work out a mutually agreeable timeframe for the extension.

I don't think it needs to be a formal process because none is prescribed.

Michele Neylon: Sorry (Mary) it's Michele. Just I get very, very wary of things that are kind of oh doesn't need to be a formal process but oh wait it needs to be a formal process, or oh, my God there's a reconsideration request.

I would prefer that the - just personally speaking because I have the misfortune of currently holding the position in chair of the registrar's I would prefer to have clarity from ICANN staff on how you want this to be addressed and via whom?

I just I would prefer that just because I don't want a situation where in six – in three, six months' time or whatever somebody comes along and say well you requested this but you didn't do it in the correct process, this won't stand up. We're going to hold you to this for rest of January 2017 date or whatever.

I just would prefer personally speaking again I'm taking all my hats off. Personally speaking I don't want to have to deal with that in a years' time or for just absolute clarity.

Actually I take that back I won't be chair so I won't care.

(Amy): This is (Amy). And what I can do Michele I'll take this back and discuss it with (Mike) and whoever else needs to be in on the conversation to see if we have any more formal requirements. I'll get back to you.

Steve Metalitz: And here I thought Michele was asking for an answer before we started the cocktail hour and the ICANN staff is here but you're willing to wait okay, good.

Okay well this has been kind of an interesting conversation. I sort of feel like an innocent bystander here but not so innocent and hopefully not just a bystander.

So we'll see how this plays out. Are there other issues that people want to raise or other questions they have about the next steps that (Mary) has shared with us?

If not I certainly want to thank everyone here for their participation, persistence, stamina and I think as I said we have made some good progress today.

But we do have some important homework assignments which the co-chairs and the staff will be getting out to you in a concise manner as soon as we can. So do you have anything you wanted to say (Graham)?

(Graham): No thank you, wrapped that up real nice.

Steve Metalitz: Okay well thanks everyone and I think something has gone on behind me that will be of interest to some of you. Thank you.

END