ICANN
Transcription
IRTP Part D Working Group meeting
Monday 06 January 2014 at 16:00 UTC

Note: The following is the output of transcribing from an audio recording of IRTP Part D Working Group call on the Monday 06 January 2014 at 16:00 UTC. Although the transcription is largely accurate, in some cases it is incomplete or inaccurate due to inaudible passages or transcription errors. It is posted as an aid to understanding the proceedings at the meeting, but should not be treated as an authoritative record. The audio is also available at:

http://audio.icann.org/gnso/gnso-irtp-d-20140106-en.mp3

On page: http://gnso.icann.org/calendar/#jan

Attendees:
James Bladel - RrSG
Avri Doria – NCSG
Mikey O'Connor – ISPCP
Barbara Knight – RySG
Holly Raiche – ALAC
Chris Chaplow – CBUC
Angie Graves - CSG

Apologies:
Graeme Bunton - RrSG
Kevin Erdman – IPC

ICANN staff:
Lars Hoffmann
Caitlin Tubergen
Berry Cobb
Julia Charvolen

Coordinator: And pardon me, (unintelligible). This is the operator. I just need to inform you that today's conference call is being recorded. If you have any objections, you may disconnect at this time, and you may begin.

Julia Charvolen: Thank you, Laurie. Good morning, good afternoon, and good evening, everyone and happy New Year. Welcome to the IRTPD working group call on Monday 6, January 2014. On the call today we have Holly Raiche, Mikey O'Connor, James Bladel, Barbara Knight, Caitlin Tubergen and Avri Doria.

We have apologies from Graeme Bunton and Kevin Erdman. And from staff we have Lars Hoffman, Berry Cobb, and myself, Julia Charvolen.

May I please remind all participates to please state your name before speaking for transcript purposes. Thank you and over to you.

James Bladel: Thank you, Julia, and welcome everyone to the IRTC working group call, first of many and great calls for 2014. So I hope everyone had a great holiday break, and are recharged, and ready to dive right back into the intricacies of transfers and transfer disputes.

Per our standard routine, (unintelligible) you want to please indicate in the Adobe room or on the phone if you have any updates to your statement of interest. Seeing none, can we then propose that the draft agenda that is listed there in the Adobe room be accepted or if you have any additions or comments to that agenda please do so at this time.

Okay, well, thanks, everyone. And once again, welcome back. We've got maybe a few minutes here to clear out the cobwebs of hopefully a nice relaxing break with family and friends. And hopefully no one has been thinking about transfers much over the last couple of weeks. I know that's probably wishful thinking on my part. But you know, it's worth a shot.

I wanted to chat a little bit about the item number two on our agenda, which is the views of ICANN compliance on the TDRP. And there were some notes there that were circulated. I'm wondering, Mikey, if you are driving - is that something that we can put into the main screen here or should we turn it over to Lars?

Mikey O'Connor: Well, it's now in the outline. I just copy and pasted it in. So the way it's organized is these are the scenarios. They had two chunks, losing registrar and the gaining registrar chunk and then (OFF) code FOA, etc. So I just put

all that stuff in there. If you want, you can just walk us through that and I'll open up the pieces as you go.

James Bladel: Sure, and I noted that we seem to be 50/50 in terms of participants and staff. So is there anyone in particular on the staff that would like to walk us through this or just want Mikey and I to change ahead? Okay, I think that's a vote for us, Mikey.

((Crosstalk))

Mikey O'Connor: So you want me to walk through since I can drive the screen at the same time?

James Bladel: Yes, I think that'll be better for synchronization. I think that if we can -- and maybe I'm getting too far down the road here -- but if we can focus those compliance points that are directly -- to draw a straight line between their comments and what we're seeking -- I think that would be ideal. I'm concerned that there's a lot of extra stuff in here. But we'll see I guess. It'll shake out as we go along.

Mikey O'Connor: Well I sort of agree. I don't want to take us up one more level and remind us all that we're working on charter question C, which is whether dispute options for registrants should be developed and implemented as part of the policy. And it's really in the TDRP. There's a lot of conversation to be had about inter registrant transfers. But I think we're going to have to tease these things apart a little bit. So with that, compliance came to us with a series of scenarios. I have to say (Alex) - no it wasn't (Alex).

Woman: (Unintelligible).

Mikey O'Connor: He rattled off a whole bunch of them on the call last week and then wrote them. And so I'm just going to go through what he wrote in the email. He broke it into two chunks, the scenarios that compliance deals with in terms of

the losing registrar are related to (OFF) codes, FOAs, or unlocking the domain. And so what he did is he came up with a bunch of scenarios that basically if any of these scenarios happen, to my understanding, that then compliance has a basis for an action. Presumably, you know, they start by contacting the registrars that are involved and go from there.

So do you want me to actually run through the details of these, James, or do you want me to just leave them on the screen and let people read them?

James Bladel: Yes, I think they're fairly self evident, unless anyone has any questions. I don't see anything in the queue. But it makes sense to me. I mean I don't want to assume.

Mikey O'Connor: I think that this was helpful for me because if I can dolly us back out to the 60,000 foot level for a minute, you know, we have all these scenarios that we came up with. And I'm just going to flash them at you. I'm not going to go through them all. And the reaction from compliance, which triggered the call last time was, you know, most of the scenarios are outside of our purview and they're outside of policy. And now that I understand where they're coming from, I tend to agree.

I think what we've got is an interesting black hole in terms of the inner registrant stuff that we came up with in IRTPC. But in terms of the TDRP as it stands today, if we leave that alone, basically, and we don't try and wedge in inter registrant transfers, then these kinds of things -- (OFF) code, FOA, and unlocking related things -- are the sorts of things that get addressed in there. And I'm tipping towards the notion that says, "Not a lot of registrant involvement in this."

I think there may be some sort of nudge that the registrant ought to be able to give if one of these, you know, kinds of things happens and nobody does anything about it. But I'm not sure that we have to be tremendously heavy

handed to get that working. So anyway, that's a little editorial aside, walking through this.

So that's the losing registrar stuff. And on the gaining registrar, it's very similar, except that there's no -- in the case of a losing registrar, there's unlocking -- well, clearly that's missing on the side of the gaining registrar because they can't. They're gaining. So the stuff that happens on the gaining registrar side is a little more limited. In this case, they allow a transfer in without an (OFF) code.

James Bladel: Really, really interested in how that's possible.

Mikey O'Connor: I think (Alex) was quick to point out that it's theoretical - you know, registry error maybe. Although, you know, again, one of the dimensions in our analysis up here is, you know, whether this is common or an edge case. And I think this is probably the sort of thing that we'd say is an edge case in any regard.

And then in terms of the FOA, the gaining registrar sends the FOA to the losing registrar. So again, some of these are pretty - I think this last one, the registrar allows the transfer without receiving confirmation after sending the FOAs, about the only one that verges on being in any way common. And I'm not even sure if that one is.

So, you know, the sort of short summary of all of this for me -- I can't quite get it all on the screen for you, but I can get most of it on -- is that today's TDRP is very technical. And at least from the standpoint of compliance, they view it as pretty cut and dry. And I guess I would too, you know. It's sort of straightforward.

And I guess I'm curious to hear from James and -- well, certainly from Avri, but more from Barbara, you know, the two of you are the ones that sort of deal with this more. Is this sort of the framework of the TDRP today? Or are

they missing a point? Is there something that you learned from seeing this list that surprised you? James, go ahead.

James Bladel: Well, I think Barbara actually has a lot more first hand expertise with the TDRP. But I think that this looks good to me. My concern here, Mikey, is that, you know, there are layers here. I mean the first layer -- when something goes wrong between registrar X and registrar Y -- is hopefully, in a perfect world, registrar X picks up the phone and calls registrar Y.

So that's all happening outside of (ITM). (Unintelligible) We've got a customer. You've got a customer. We have a shared customer that's having problems or something. Can we fix this? So, you know, there's a whole cloud of things that can happen that's outside of this process.

And then it's only when something in this chain breaks down -- as compliance has outlined -- that, you know, we believe that it's time to get ICANN involved and/or one of the registrars that's not cooperating, not playing ball, not answering their phone, you know, whatever. So, you know, I think it looks good.

I just wanted to point out one comment that came up when you were walking through the bit there for the moving registrar. I think there's a distinction, there's a line often drawn between what the registrar does and what the registrant does. But I think it just is important to reinforce that registrars are not typically going to unilaterally take these actions. They are doing so on behalf of or at the request of a registrant.

So the registrant's actions or involvements are hidden or mixed in with the registrar's actions, if that made any sense. I don't think we can always draw a line and say, "This is what the registrant is doing. This is what the registrar is doing." because sometimes the registrar is acting on their behalf.

Mikey O'Connor: Well and through automated systems, which can be gained by a malicious registrant, just to amplify that a little bit. Okay, any other thoughts about this? This, I think, is an important piece of foundation work. And it takes me back to the assisting job. Barbara, go ahead.

Barbara Knight: Hi, Mikey, don't have any substantial. This is Barbara for the transcript. I mean I agree, I think it's a pretty comprehensive list. A lot of this we don't see at the registry level until it gets to a dispute. And, given the number of transfers that occur and the - James had mentioned, ideally one registrar picks up the phone and talks to the other registrar.

You know, a lot of them are resolved there so we never even see, I would say - I'm going to guess we don't see 95 % of any dispute that may actually be occurring. It's a very small number that actually get to the registry level. But based on, you know, what we're seeing here, it does accurately reflect some of the items that we do see as a result of the transcript coming out.

Mikey O'Connor: Thanks, Barbara. Anybody else want to chime in? I have some editorial stuff but I don't want to poison your thoughts with it. So I want to linger for a minute, just let this soak in. All right, I'm not seeing anybody. Feel free to chime in. But I want to go back now to the scenarios that we came up with and show you an interesting thing. Wait.

At the beginning, we came up with some that fall into the - so the question that was on our mind is, for all these scenarios that we came up with, we had several dimensions that we wanted to go through these on and make some decisions about. From a policy standpoint, we said, "Well, okay, clearly the TDRP clearly applies. Maybe this is one of those inner registrant transfer things that we don't really understand from an IRTPC. Maybe the ICANN policy does not apply at all, and then puzzlers."

And for me, the number of puzzlers has declined because the description of the actionable cases in the TDRP that's supplied by compliance narrows

things and puts pretty bright boundaries, pretty bright edges on what's in and what's out of TDRP. That's good news in a way because I think it makes our job easier. But it's bad news in another way in that it leaves a lot of stuff outside policy that at least I'm always very interested in, especially in the hijacking realm. But I just wanted to remind us of all these scenarios that we came up with. So this one I think fits. That's one of the...

James Bladel: Mikey, this is James. Can I jump in really quickly?

Mikey O'Connor: Yes, go ahead.

James Bladel: Are we going to - I mean is the idea then that we would take the scenarios that we came up with and kind of match them up to what compliance is saying?

Mikey O'Connor: Yes, it's actually an easier job than you may think because it turns out...

James Bladel: Yes, I think that's a good idea. I was just confirming that's where we were going with this. I like that.

Mikey O'Connor: Yes, I think that what we wind up with - I started to do this before the call because I was feeling guilty because I hadn't done anything on IRTP. And so I went ahead and took our scenarios that I think clearly fit inside. And my thought was that I would complete this job. I started this literally like ten minutes before the call. And so I started putting them in these piles based on my sort of sharper understanding based, you know, on the compliance stuff.

And I was quickly coming to the same conclusion that compliance was, which is, you know, we get into one like this, two registrants are disputing the right to a domain name, blah, blah, blah. You know, that's outside the policy as it stands. It's certainly outside of the TDRP. It doesn't make any sense to me that a registrant should be able to trigger a TDRP based on this scenario.

And I think that most of these are like that. They don't fall in those bright, shinny boundaries that compliance came up with.

You know, I'm just slowing scrolling through these. I'm not going to actually put them in piles now. But I just want to remind you that there are a lot of scenarios that we've come up with that we're interested in but for which there is no policy today that really addresses this. You know, this one's classic. And so I think what that gets me to is that in terms of existing TDRP, charter question C is easy.

Yes, it would be nice if a registrant can demonstrate - let me go back to a compliance scenario for just a minute. If a registrant can demonstrate that any of these kinds of things have happened, I guess the question that's on my mind is can't they already contact compliance, James and Barbara? If the registrars are sitting on their hands, let me just pick one of these at random. The registrar sends an (OFF) code to someone who's not with the registered name holder. A registrant is in trouble because of this.

Can't the registrant just go to compliance and bang the table and say, "Hey, they sent the (OFF) code to the wrong place." Do they need any more access to the TDRP than that? Is that the channel that they should be counseled to go through? Because if it is then I think the answer to charter question C is no. Until we get to the quagmire of the inner registrant transfer policy of our TPC, and I'm sort of setting that one aside because the more I look at that, the more of a black hole it seems like. James, go ahead.

James Bladel: Thanks, Mikey. James speaking. So I can respond a little bit to your question here. And I think I like where you've taken this. By lining up what compliance provides currently and what scenarios we've identified that are minefields, I think that we're getting to - it's kind of a brute force approach, but we're getting to a part where we can draw a bright line and say, "If it's a single registrant that is disputing a transfer -- an inter registrar transfer -- then do we

have sufficient policies and compliance procedures in place?" And I think the answer there is yes.

Mikey O'Connor: Right.

James Bladel: But I think that you're correct in that if the registrant changes at all, it doesn't matter if it changes registrars. But if the registrant changes in conjunction with the registrar transfer or if the registrant changes, you know, even internally to a registrar, it becomes a much messier situation. And I think that you hit on here is that if the scope of this working group is to focus on TDRP as an existing mechanism for inter registrar dispute, than we're good.

However, and I think we touched on it in this working group and a little bit in ORTCP, that if we look at the inter registrar transfer or the let's call it - I'm sorry, inter registrant, the change of registrant process, than this becomes a bier patch that we're tangled up in. And, you know, it takes us down that path of ICANN getting involved, you know, in disputes between parties with competing claims to control the domain name.

And I think that's where things get really, really sticky. I don't know if that's taking us up for a way out, but it sure feels like we can draw a box around a big chunk of these scenarios and say, "This is already provided for. It's this other stuff that's messy."

Mikey O'Connor: Right. I think that's right. And I think that - well, I'll go to Holly first. Go ahead, Holly.

Holly Raiche: Just a thought, one of the things that it seems to me would be really helpful that comes out of these is to provide some clarity for say registrants to say, "This is the boundary of where you've got a remedy in ICANN and if you're outside of that, then in fact you're going to have to go to other mechanisms, you know, the courts whatever." So there'd be value in actually looking at all

of the scenarios, but then identifying these are the things that are in the DRAA that are policy.

And these are the things that in fact ICANN can provide a remedy. And then to say, "Well, actually we can't provide a remedy in certain other circumstances." I mean that seems to me a really helpful thing to do even though, in fact, we're not answering those questions. We're at least saying, "The reason we're not answering those questions is because they're outside of our rule set and something else has happened. And you're going to have to go some place else." Thanks.

Mikey O'Connor: Thanks, Holly. And I hijacked your screen just briefly, with a screen that somebody pointed out on the list. And I did sort of a facepalm and did, "Wow, I've never seen this before." I think it's truly horrible. But it's at least a start on I think where we're headed with this, which I agree with, Holly, which is we need a way for a newbie registrant, you know, a typical registrant who has one or two domain names.

They don't pay any attention to it. They pay $9 a year, whatever it is. And something goes wrong. And they need help. And this is the page they get. And it's like, "Well, I'm not sure this is quite where we need to be but it's at least a start." And so I just wanted to throw that up on the screen that, you know, there does seem to be some work to do in terms of outreach, and information, and so forth that probably doesn't need to be burned into policy but certainly could be burned into a much better Web page than we've got right now, because I'll tell you true, that's a really awful Web page at this point. Okay, any other thoughts on that?

So we're sort of heading down a track that says, "In terms of the existing scope of the TDRP -" Well, let me circle back to my question, which is if -- you know, I've left the compliance stuff up on the screen -- if one of these things happens, is the registrant - if a registrant goes to compliance and says,

"The registrar sent the (OFF) code to someone who is not the registered name holder and now they will not respond to me."

What does compliance do at that point? I mean if compliance just shrugs and says, "Too bad." then maybe we do need to put some sort of access to do the TDRP for the registrant into this. If, on the other hand, compliance jumps forward and says, "You are a winner. You get our full support in helping to resolve that issue." That's where I'm at is how responsive is compliance to an end registrant. And I see smart hands in the queue. James, go ahead.

James Bladel: Hi, Mikey, James speaking. So just to address that, I would say that it is not a mutual, in fact, it's fairly common that we would receive a request from ICANN compliance to say something like, "We've received a request from this particular individual regarding this recently transferred name that you were either the gaining registrar or the losing registrar, and something was not followed. You either did not give them the (OFF) code. One of these scenarios."

The registrar that's contending that something was not followed here or the (OFF) code was sent to the wrong place, that they did not authorize the transfer, or that the person who authorized the transfer was not the appropriate person, or whatever." That is not - I don't want to say it's common, because there's probably a lot more going on that I don't even see procedurally. They only come to when they're, you know, unusual or outside the lines a little bit. But it is fairly typically that we would receive something like that from ICANN compliance.

Mikey O'Connor: Okay, and at that point, yes, okay, fine. Barbara, go ahead.

Barbara Knight: This is Barbara. So I agree with James. I would say that, you know, more than likely that would be something that would go to ICANN compliance. And ICANN compliance would likely follow up with the registrar against whom the complaint has been laid. I guess my question is relating more to like the

registrar sending you (OFF) (unintelligible) code to someone who is not the registered name holder.

So is that implying that maybe it went to a billing contact? Because there's only going to be a certain number of contacts that are going to be in the registrar's system. So I'm guessing that when they're sending out the (OFF) code, the intent is that it goes to an authorized transfer contact, being either the registrant or the admin contact. And apparently it's going to someone else. Is that kind of what the (unintelligible) of what this particular item is?

Mikey O'Connor: Well, I think we've got...

James Bladel: May I respond to that, Mikey?

Mikey O'Connor: Yes, go ahead, James.

James Bladel: So Barbara I guess usually what I would see in that is that the registrar either didn't send it at all or that the contact information was changed immediately prior to the registrant, to the FOA or off info being requested so that the previous contact listed in Whois would say no that should not have been sent to that person, that should not have been changed.

I mean I'm just, you know, shooting from the hip here a little bit but I would say most of those cases it's not a question where the registrar just chose the wrong contact in Whois and sent the - or some random contact. It was more that the registrant is complaining that the person who authorize the transfer was not - was not correct or appropriate.

Barbara Knight: Okay. So in essence the registrant account had been compromised if you will and the information was updated without the registrant's knowledge. And then this type of scenario occurred. And I guess in that particular case James maybe you can speak to it from a registrar's perspective?

Do you then provide I guess system logs that show when the information was changed and when the (OFF) info code was actually sent out and to whom? Is that how kind of how you would address something like that?

James Bladel: Yes, yes exactly. And in that scenario I think you're correct just that we would then demonstrate that, you know, the sequence of events we would then demonstrate to ICANN that certain things happened at certain - in certain sequence or in certain times and that there was a certain amount of communication with different parties. So but yes that's how we would try to untangle something like that.

Barbara Knight: Okay. I mean I think that makes sense for that type of, you know, complaint to go to ICANN, you know, initially if they're not getting the resolution that they'd expected from the registrars or yeah, the registrars excuse me. Thanks.

Mikey O'Connor: And see here's the interesting bright shining line. James nailed it. I hadn't thought of it quite as clearly as he did. But the shiny line is if there is no change of registrant this policy works fine.

Where we run into trouble is when there's a change of registrant. So on this one if the (OFF) code went to someone who's not the registered name holder but it's not really changing the registrant then fine. It gets fixed.

It's sort of a procedural problem -- whatever but the registrant hasn't changed. It's - it turns out that all the stuff that I'm really interested in involves a change of registrant.

James Bladel: The hard stuff.

Mikey O'Connor: The hard stuff. And you know it's kind of like okay fine, you know, I wish I had compliance's job because they've got all the easy use cases, you know.

And it's - so, you know, I'm - I'm pretty prepared to write a section of the report that says here's the rules of the road if there's no change of registrant.

And no in that circumstance there's no particular need for the registrant to be able to get to the TDRP because, you know, that process we'd have to document this a bit but that process seems pretty sound.

But and that's the huge but, what do we do about all this stuff where the one that's highlighted on the screen is actually triggering a change of registrant? And what does compliance do in that circumstance?

Do they try to mitigate those disputes? I mean, you know, let's take the easy one off the table and say yeah that's find.

But what if they do in the case of a hard one where I come to them and I say Go Daddy sent an (OFF) code to Joe Schmoe in Siberia and the name is now at two different registrar and I did not authorize it because that's when I want access to the TDRP if the registrars aren't cooperating.

You know, the one where, you know, it didn't change the registrant I understand it. And I think what this is is it gets back to the history of the purpose of this policy was back in the early days 1999, 2000 giving registrants the right to change registrars and their - the policy's intent was to keep from being trapped by a registrar who wouldn't let them go to a competing registrar. And this takes care of that just fine.

The big problem is the hijacking problem. And, you know, that's the one we still have to tease our way through I think. James go ahead.

James Bladel: Just agreeing with what you said there at the end is that policy was designed to facilitate the registrant's ability to vote with their feet, to promote competition. It was not or maybe it wasn't as common and maybe it was anticipated but wasn't as common that the registrant would - the domain

names would be portable between different parties. And I'm being very careful with my language here. This is not that there - that folks would transact in domain names as service contracts.

So yes that's the problem is there is no policy for that. And we tried to take a swing at this in IRTPC. And I think that we have a good results from IRTPC.

But I think what we're seeing now as we explore the concept of disputes is that IRTPC was left somewhat incomplete because we did not draw very clear boundaries as to how one would undo a change of registrant and who would adjudicate that request or, you know, that dispute.

And I think that's a, you know, a sticky question because it drags us down this rabbit hole of different entities.

You know, one person has got a receipt for something they paid for, another person's got a divorce decree. Another person's got a will and then another person's got an employment contract and it just gets very, very messy.

Mikey O'Connor: Yes well and, you know, I think the historical parallel there is to the UDRP -- this is Mikey by the way -- where way back in the early days ICANN said you know those trademark disputes are going to get complicated. They're nasty messy.

We should try and put some bedposts up in a policy that the three-legged stool of the UDRP which has held up remarkably well um, and some framework around that.

And I'm thinking that the more I think about that the more I think the parallel holds up but I do, you know, I think back to Volker's point which triggered this giant discussion which is who should pay for that?

I think the registrants pay for that. I don't think that the registrars should pay for that unless they're a party which, you know, with rules that set all that out.

Um, but, you know, where I'm landing is access to TDRP as it stands today for registrants no. Access to some other as yet undetermined process to adjudicate and resolve intra-registrar disputes, yes.

Payment, that's complicated but I think that it's fair to say that it should probably be modeled on the UDRP since it's really a dispute between registrants for the most part.

That's sort of the sketch of where I'm headed. James has given me a green check mark on that. I think then what we could do is we could say one of two things about the TDRP.

We can either say okay we are not going to rewrite the TDRP. We could but it's been around for a very long time. It gets very little use. The use cases are so narrow that it's not really worth the trouble of tearing that of part and especially not worth the trouble because we're not going to give registrants access to that process anyway and then focus all of our energy on figuring out the intra-registrar stuff as a separate thing with a separate equivalent TDRP and adjudication process. Now, James go ahead.

James Bladel: Hi. Thanks Mikey, James speaking. So I am with you every step of the way right now and where you're going with this.

You know, I think that we've uncovered I think, you know, I think, you know, if we can even go back to the transcript too -- and maybe this is just a hand for Lars and folks is that what you just described is right, you know, exactly I think a bullet point on how we respond to this particular charter question.

I think the catch is and where maybe you and I start to, you know, start to be some daylight here is that how far this group can go down the path of creating that other policy.

I think we can - definitely I think we've already started some really excellent work as far as laying out what it should do and what it should look like and maybe what areas we should stay out of. So I think we can put the boundaries around it.

I'm worried a little bit about going too far down the road where this group is actually saying, you know, that inter-registrant disputes should be resolved through a different mechanism and here is that different mechanism on a silver platter.

Because I think that that - I think that's maybe a lot more people who aren't participating in or aren't transfer policy wonks may want to weigh in on that bit.

So that's just that's just one thought there. And it would tie into other things like UDRP or URS which I think are good models, particularly the URSes bit about loser pays.

I think that when you were talking about fees and the answer is, you know, if the dispute between two parties and party A prevails then party B should be on the hook for proceedings.

I don't know that that's always possible particularly in case of hijacking when party B is just this, you know, mythical figure that lives in some country that just doesn't respond to these requests.

But anyway that's just, I'm with you. I think that what we - I may be hesitant to jump into the pool where we actually start defining that second process

above, you know, anything beyond just maybe high level bullet points as we've identified in these scenarios and use cases.

Mikey O'Connor: Well I've got a way out for you. I'll try this out on you and see what you think. Of course it doesn't get you and me off the hook James but it gets this Working Group off the hook. And that is that IRTPC is in the implementation phase.

And one of the things that this working group could do is give instructions and suggestions to the Implementation Review Team that's working on IRTPC and essentially stop there.

And so what we would do in this Working Group is we would stay at that very high level, raise, you know, capture all the issues that we've tripped over. Because we found a bunch and it's all higher up in this outline, tidy all that up and hand it back and say you know, IRTPC didn't get done, it's in implementation now et cetera, et cetera.

I'm not sure I'm comfortable with that but that's at least one avenue. James go ahead.

James Bladel: So yes I like where you're going with that. I like your idea there. I wanted to just kind of put out the possibility that even an implementation review team might not be well suited to address this.

I'm just thinking here that there's a lot of other stakeholders that probably when you tell them about hey we've got this transfer working group, come join, get involved and they just kind of snooze, you know, and just wave their hands that they've got better things to do.

But if you tell them that you're putting together policies or procedures to resolve disputes I think that that's going to get a lot more people interested

and involved. And I think that - in fact I think stand back and get ready for the stampede...

Mikey O'Connor: Yes.

James Bladel: ...of folks that would want to get involved in that. And so I just feel like this Working Group and even the Implementation Team for C I mean we could try it.

I want to get to solutions expediently as the next guy but I'm just worried that - that the blowback on that would be pretty severe.

Mikey O'Connor: Well so another approach - while there's - I mean the one that just sort of falls right in front of us is essentially to charter and IRTPE just like Barry did in the chat.

James Bladel: Or call for an issue report right?

Mikey O'Connor: Yes, you know, I mean that's that clearly the normal process on this. You call for an issues report is probably the correct one actually because I mean it's made more interesting by the fact that IRTPC already spoke.

And I see Avri agreeing on IRTPE. I mean I think that one interesting wrinkle to this particular one is that if we blow the dust off the IRTPC report we've got a fair amount of stuff in there some of which has been overtaken by aspects of the RAA.

And yes I see what you're saying James. It's a new animal and so a new animal as in issue report? Avri were you agreeing to issue report or IRTPE? Because E we can charter inside of D. Issue report yes okay Avri is saying issue report.

I'm okay with that. You know, I like that process. I think it's got a lot of rigor. I would hope that we could do it rating the needle between the various explosions coming from IRTPC's implementation and the implementation of 2013 RAA. That's going to be complicated but I'm okay with that.

Holly go ahead.

Holly Raiche: Holly for the transcript records. It seems to me if there's a process that can be developed it would be around the fact that if a registrant has a problem that is within the purview of what compliance has outlined then you would say if you are a registrant and the following things that have happened that are within the boundaries that we've just drawn or that compliance has drawn this is what you do and this is what you can expect in compliance.

If it's outside of that box then I'm taking a deep breath and saying is this an ICANN thing? Because if it's about a divorce or if it's about a will or if it's about a Web designer that just didn't do the right thing I'm not sure that ICANN should be involved in any of that other than to say this is outside of ICANN policy, it's outside of the RAA, it's a personal dispute.

You know, company law may be involved or a contractor may be involved or whatever. We can't deal with this stuff.

And one of the clear outcomes may simply be this is with a lot of clarity around it what ICANN can do because it's got rules and policies. And then we can't go beyond that because we don't have, you know, we're not a court or we're not whatever.

And that may be very, very useful. But the policy that we're talking about if it's a separate policy for registrants really ought to be I think confined to saying of registrants if the following situations have arisen and they are within this little box that we have defined then you can go to compliance and this is how you do it..

And it seems to me any more than that is something we can't do. But I could be wrong. Thanks.

Mikey O'Connor: Thanks Holly. I saw James's hand go up in the middle so I'll let James go next.

James Bladel: Just want to - thanks Mikey, James speaking, just want to emphatically agree with what Holly was saying that there's just so many reasons why anything that would be proposed.

And I think that's why the best course of action as much as I, you know, expediently would love to see us just solve the problem check the box and move on I think that caution dictates that we should take the correct approach which is the call for the issues report.

We lay out what we've discussed, what we've discovered, what we've researched and then we kind of say this is the bigger thing. It's not entirely related to IRTP's TPs and transfers. It's really about a dispute between registrants and we need an answer here.

And then to Holly's point and it needs to be a narrowly tailored answer so that it doesn't drag ICANN down all of these rabbit holes.

But I think that the UDRP can be a bit of a guide here because I - at least my understanding of UDRP's original intent and purpose was to take the majority, the bulk of disputes that could be solved outside of a court and address them through some sort of a, you know, binding arbitrary arbitration process.

And I feel like maybe that's the path that we could go. Because as Holly points out, you know, if it's business dealings or if it's, you know, some sort of

family laws' involved or, you know, like that then yes it's probably going to go to court but those could be the minority.

I think what we're seeing a lot of instead are aftermarket transactions that have gone south or, you know, compromised, you know, the vast majority being compromised email accounts to steal FOAs and compromise registrar accounts to transfer names out.

And it seems like if those were 60%, 70%, 80% of the types of disputes that were brought into this new policy animal it's seems very appropriate that ICANN could address those types of situations.

But I agree that the tougher ones and we should have a means to identify which side of that line they fall on fairly quickly in the process. But the tougher ones just are well beyond anything that ICANN was ever envisioned to resolve.

Mikey O'Connor: I think we're pretty much in agreement. Avri's been pretty active in the chat so I just want to draw your attention to that.

You know, I always pay attention to Avri on this kind of - let me rephrase that. It makes it sound like I never pay attention to her on certain topics. I always pay attention to Avri -- never mind.

But on this particular kind of thing Avri is much more familiar with sort of the edges and boundaries of what is done inside and outside of the issue report process and so on.

And I think that, you know, I'm quite comfortable with pursuing that approach. I think we could do a very good job of framing the questions. That was one of the things that's in Avri's comment that would tee up the issue report.

And, you know, I think the - I'm going to make that just a little bit bigger so I can read them so that you can too hopefully.

That's probably another snippet for Lars to grab in his summarizing of all this. And I don't know, I feel like we've come a long way and are pretty agreed on a course here.

I think I'm going to take an action to take the rest of our scenarios, that long list, this list. And I will start dumping them into those piles just as I think that may be a useful document to help us frame that inter-registrant issue report, part of our report.

And I think that we've come a long way on Charter Question C. So then we are about five minutes from the top of the hour.

James do you want to touch on the work plan this time and maybe hit it a little harder next time once we understand? Because it may be that we are going to be able to move a lot faster than I thought we were going to.

If we're asking a bunch of questions of an issue report about inter-registrant transfer dispute resolution then it seems to me we have a much faster timeline possibility than if we are actually resolving those questions. Do you agree on that?

James Bladel: Yes Mikey. I actually just want to weigh in real quickly. And first off I have a hard stop at the top of the hour so I apologize for that.

Mikey O'Connor: Yes good one.

James Bladel: I know we wanted to talk a little bit about the work plan but I think we're going to have to defer on that. And it's unfortunate but I just I don't see how we're going to be able to tackle that here in four minutes.

But I think that you're correct. And I would especially put the ball back in Lars's hand here. And I apologize if it feels like we're putting you on the spot Lars but we've been struggling with some of these issues for, you know, most of the time, you know, since Buenos Aires and even a few weeks before.

I think we've may, you know, to borrow from a therapist vernacular I think we've made a couple of breakthroughs here in this particular call.

So I would just really emphasize that I think, you know, and to Lars and to Barry and anyone else who is maybe capturing notes that this call really paints the way out of this quagmire in Charter Question C.

But I think that we can then start like you said Mikey really start finalizing what the, you know, what the initial report will look like.

Because I think we still are on target to have that either introduced at the meeting in Singapore in March or even if possible, you know, receiving some more public comments at that meeting.

So I think we're on the right course here and I really like the idea that we take - and it's not kick the can type maneuver. I really think we've identified that there are a lot of things outside of what ICANN and even, you know, existing policy can provide for.

And if we're going to make some of these structural changes that we need to do so in the appropriate venue. So I'm good with where we are at that. I think that the work plan is going to have to wait until next time.

Mikey O'Connor: Thanks James. Lars I think it would be great to put together sort of a draft work plan just sort of lay the data into and see what they look like and see what the fence posts will be if we were to shoot for a bit before the Singapore meeting what's realistic given the state of the draft and all that. Go ahead Lars.

Lars Hoffman: Thinks Mikey this is Lars. Yes no problem. I'm - I was actually going to suggest to maybe send a note of this call around for those people who haven't attended today to get the key results of the discussion today out to everybody.

                  And then I'll include also the visits the timetable of the work plan factoring in...

Mikey O'Connor: That sounds...

Lars Hoffman: ...the Singapore meeting (review).

Mikey O'Connor: That sounds great. I think James and I are both a little sensitive to the pre-meeting logjam. So if we could get a little bit ahead on the typical flood of reports that come out before a meeting that would be good if we could set out a timeline that makes, you know, makes it mid-to late - mid to three quarters February I think that would be terrific. And it's be interesting to see if we can do that.

                  We may be able to because most of the issuer - the initial report is written. It's really this C, Charter Question C that we got so stuck on. And I think we're unstuck now so so it's top of the hour.

((Crosstalk))

Mikey O'Connor: James you're typing. Do you got - yes there he goes, hard stop.

James Bladel: Just save the draft. I just wanted to say this was a really productive session. Thanks everyone, Mikey and staff and Holly and Barbara and Avri and (Chris) and all the diehards that show up to these things and welcome to 2014.

Mikey O'Connor: All right I think on that note we'll call it a day. Thanks.

Woman: Thanks everyone.

Mikey O'Connor: Hey gang, Julie you can wrap this up? Avri's giving us applause. This is
                super. I think we did good today. Thanks folks. Talk to you soon.

Woman: Thank you.

Woman: Bye.

                                    END