ICANN
Transcription
Privacy and Proxy Services Accreditation Issues PDP WG
Tuesday 07 January 2014 at 1500 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 07 January 2014 at 15:00 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-ppsa-20140107-en.mp3

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

Attendees:
James Bladel - RrSG
Amr Elsadr - NCUC
Alex Deacon – IPC
Don Blumenthal - RySG
Gordon Dick - RrSG
Luc Seufer - RrSG
Marie-Laure Lemineur - NPOC
Steve Metalitz - IPC
Michele Neylon - RrSG
Todd Williams - IPC
Volker Greimann - RrSG
Carlton Samuels - At-Large
Stephanie Perrin - NCUC
Griffin Barnett – IPC
Justin Macy – CBUC
Kathy Kleiman – RySG
Keith Kupfershmid – IPC
Osvaldo Novoa – ISPCP
Phil Marano – IPC
Gema Campillos - GAC
Val Sherman – IPC
Statton Hammock – RySG
Tobias Sattler – RrSG
Paul McGrady – IPC
Victoria Sheckler – IPC
Kiran Malancharuvil – IPC
Jim Bikoff – IPC
Matt Serlin – RrSG
Brian Winterfeldt – IPC
David Cake - NCSG
Ben Anderson - RrSG

Apologies:
Holly Raiche – ALAC
Maria Farrell – NCUC
Hector Ariel Manoff – IPC

ICANN staff:
Marika Konings
Mary Wong
Margie Milam
Joe Catapano
Julia Charvolen

Coordinator: And pardon me, everyone, 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 your line at this time. And you may begin.

Julia Charvolen: Thank you, (Laurie). Good morning, good afternoon, good evening everyone. And welcome to the Privacy and Proxy Services Accreditation Issues Working Group call on Tuesday 7th January at 15 UTC.

On the call today we have Carlton Samuels, Tobias Sattler, Osvaldo Novoa, Griffin Barnett, Volker Greimann, Gordon Dick, Statton Hammock, Todd Williams, Justin Macy, Steve Metalitz and Ben Anderson.

We have apologies from Maria Farrell, Holly Raiche and Don Blumenthal. And from staff we have Marika Konings, Mary Wong, Joe Catapano, and myself, Julia Charvolen.

May I please remind all participants to please state your names before speaking for transcript purposes? Thank you very much.

Steve Metalitz: Okay thank you very much. This is Steve Metalitz and in Don's absence due to travel delays and problems, which many folks in North America are experiencing, I've been asked to chair this call.

We have a proposed agenda that Marika sent out, I believe, yesterday - and with seven items on it - I think that's up on the screen. Are there any other

items that people would like to add to this agenda or any questions about the agenda?

Well hearing none I'll assume that we're okay with that agenda. And we've had the roll call. I'll do the obligatory reminder to - or I'll ask people if they have any oral updates to their Statements of Interest that they wish to make now? Are there any?

Okay, hearing none...

Marika Konings: This is Marika, Steve.

Steve Metalitz: I'm sorry.

Marika Konings: This is Marika. Just to note that as you see the list of members on the screen we had a couple of new additions to the mailing list and some of those people are still filling in their Statements of Interest. However, we do have two on the list that we've sent repeated warnings that they need to complete their Statement of Interest.

And I think Glen has given them a deadline of today to complete those and if we haven't received them by the end of today we'll remove those people from the mailing list. Of course at any time that they submit their Statements of Interest we can re-add them. But I just wanted to share that information with the working group.

Steve Metalitz: Okay. Thank you. And that's a good reminder. Okay so I guess our first substantive agenda item is to review and finalize the template letter to go to stakeholder groups and constituencies. I think this is a standard procedure within working groups to seek input from stakeholder groups or constituencies.

And that's often useful for getting a sense of where different parts of the GNSO, anyway, think we should be headed. So I think we were - we had an edited version of this draft that was circulated I guess yesterday. And I guess that's what's up on the screen.

I believe these edits are from Don although I'm sure the staff will correct me if I'm wrong about that. So I don't know if people have had a chance to look at this. It basically consists - 90% of this is just the list of questions that are in our charter and asking if the stakeholder group or constituency has a view.

The prefatory material, which is this first page that you see on your screen now, is really the only thing that's changed and that is - there are a couple of edits there to delete the requirement that - to explain who was involved in preparing the answers, let's put it that way, and what process was used to reach those answers.

I'm not 100% sure why Don suggested that we delete these points but - and I don't know if Marika or Mary, if you have any insights on that. But I guess that's the main change that he made to the draft that was circulated I believe on the - back on the 17th or just around the time of our last call.

So I guess the two issues are, are people okay with these changes or do we want to discuss those? And then the other question is we have to - if we approve this we have to set a deadline for response. It has to be at least 35 days, which I guess is in the working group procedures.

And that's to give these groups enough time to respond. I don't think there's anything magic about that but it has to be at least 35 days. So I'll open the floor to any comments on this draft letter particularly on the changes that are reflected on the screen or proposed changes that are reflected on the screen and on the deadline. Do people have any comments about this?

Okay so can I take it that people are comfortable with this letter - with this letter going out? As I said it mostly consists of recitation of the questions that are in our charter. I see one favorable comment in the Chat. I also see in the Chat that we are still having some echo problems.

And I think we're also getting a regrets from Ariel Manoff if that could also be reflected in the - Hector Manoff - if that could be reflected in the...

Jim Bikoff: Steve?

Steve Metalitz: Yes. I'm sorry...

Jim Bikoff: It's Jim Bikoff.

Steve Metalitz: Jim, go ahead. And then I think...

((Crosstalk))

Steve Metalitz: ...and then Marika I think had her hand up but go ahead, Jim.

Jim Bikoff: I just wanted to say we're - we had asked to be in the group earlier and we just actually got in the group as of yesterday so I haven't had a chance to look at the material in any detail. But when is the - can we have until today or tomorrow to get comments to you on that draft?

Steve Metalitz: Yeah, I don't see any problem with that. Marika, let me ask you to weigh in here on the process or the point you wanted to make.

Marika Konings: Yeah, this is Marika. And noting as well the comment that Volker made one suggestion could be that we push out a clean draft incorporating Don's suggested edits to the list after this call and maybe give everyone until Friday to provide input or feedback.

And then if there are no further edits or things that need to be discussed on the list we as staff could get it out to the stakeholder groups and constituencies on Monday and just, you know, count 35 days until the deadline would kick in if that's agreeable.

Steve Metalitz: Okay, that sounds like a good suggestion. A clean version would go out, people would have until Friday to make any comments on it - it would go out to this list as is - and barring no substantive comments it would go out on Monday with the 35-day from that date deadline. Is there any objection to that approach? If not then why don't we proceed on that basis?

Okay, we've got one agenda item down. The next one is similar, it's on outreach to supporting organizations - other supporting organizations and advisory committees. So the first letter would go out to the stakeholder group and constituencies within the GNSO. This would go to the ALAC, to the SSAC, to the other advisory committees, including the Governmental Advisory Committee, and then also to the ccNSO and the ASO. Hopefully that's a more or less complete list.

But anyway it's basically the same idea that we have - and you see it on your screen now - most of the letter consists of the charter questions. And Don has made some edits on this - this text that you see in front of you.

One thing I'm not - okay, this actually differs I think from what was circulated perhaps. Oh I see, okay, excuse me. So this leaves open the date - the date by which these responses would be requested.

I guess - I don't know - and maybe the staff can advise whether there is a default time limit or timeframe for this just as there is the stakeholder groups and constituencies. It does say if you can't make that date let us know when you think you can respond.

The problem here is that - one problem of course is that these different groups will have very different procedures and may respond at a very different rate. So - and they're a more diverse group in that sense than the stakeholder groups and constituencies. And within the GNSO who all operate on more or less the same types of procedures.

So I'll ask Marika if she has any comments on that issue of the time limit or anything else on this draft.

Marika Konings: Yeah, this is Marika. In relation to the timing the only thing that is foreseen in the PDP manual is indeed the minimum requirement of 35 days for stakeholder groups and constituencies to provide feedback. There is no such deadline included in there. But I think the working group may want to consider using the same deadline as for the stakeholder groups and constituencies because receiving all of the information at the same time may be helpful to collate and start reviewing it.

As you'll note the letter does foresee, you know, as you said, Steve, noting that some groups may need more time. It does foresee the option that groups can come back to indicate that they need more time so at least the group is aware that something more may be forthcoming.

So I think that's the flexibility in there acknowledging that certain groups may need more time to turn around comments or feedback. And I think typically working groups work in the same way as well with stakeholder groups and constituencies because there may be as well additional requests for additional time to provide feedback.

Steve Metalitz: Okay. This is Steve. Thank you, Marika, for that clarification. Are there any comments on this draft and - that people want to make now? If not perhaps we can adopt the same process as we did with the other letter; a clean version will be sent out and people will have until - end of Friday to comment and we'll try to get this out by Monday with a 35-day suggested response

date on Monday to the SOs and ACs. Is there any objection to proceeding in that way?

Okay, then I think we've taken care of those two items. Watch your mail for the cleaned up versions.

The fourth item is update on working group members' survey. And this is - we had asked - it had been suggested that working group members could provide I guess their individual responses to effectively the same questions that are in our charter. And I guess there was the - I think that's actually the fifth agenda item that's on the screen now; 4 is the member survey.

Oh, excuse me, I see the agenda is changing before my eyes. Input to EWG survey is the next item. Sorry about that. And I guess that will - so the Experts Working Group has come up with a list of questions that have obviously a lot of overlap with the questions in our charter but it's all sliced and diced somewhat differently and it goes into perhaps more detail.

And they are planning to send this - again, and I think the staff will correct me if I'm wrong - they are planning to send this to two known privacy and proxy service providers as part of the research that is being done during the current hiatus period of the Experts Working Group. I see we have at least one or two members of the Experts Working Group on the call I think.

But - so we were asked if we had any input to this. And I know there was a little bit of traffic on the list about it. One point that I'll raise again is that there's actually a lot of - I guess two points.

One is there's a lot of overlap between this information and the information that all of these services that are offered in connection with Accredited Registrar - registrars who have signed up to the 2013 RAA and who offer these services - they're already required to publish a lot of information and I

think it overlaps quite a bit with this. And maybe that would be something to compile.

The other point that I raised in my comments is I think if you look down on the second page of this the Experts Working Group is proposing that it will not actually share this result - these results with us. They would be publishing a summary of anonymized aggregated survey results and that would be shared with us.

And my view is that probably wouldn't be all that useful to us and probably less useful than having the compilation of the material that is required to be published under the 2013 RAA.

So let me open the floor now to comments on these questions. I see Michele and Stephanie have raised their hands. If you're on the - if you're in the Adobe room you can use the raise your hand function to indicate that you want to speak. So let's start with Michele and Stephanie.

Michele Neylon: Thanks, Steve. Michele speaking. I'm going to try my best to start 2014 being relatively diplomatic but I can't see it lasting. Steve, with all due respect if you're going to push for certain items which may be of particular interest to you personally or to any group that you may be supporting I think you really would need to cede your position as chair of the group when so doing.

The other thing as well is that with respect to privacy services and proxy services not all privacy and proxy services are directly related with registrars and not all registrars have signed the 2013 RAA.

So, for example, if you wanted to poll us, which you could, we're under absolutely zero obligation to divulge anything because we are not party to the 2013 RAA. And many other registrars are probably in a similar boat. While they may have an accreditation on the 2013 RAA they may not have all their accreditations on the 2013 RAA. Thanks.

Steve Metalitz: Okay thank you, Michele. Let me turn to Stephanie and then I'll put myself in the queue. Is there anybody else that wants to be in the queue? Go ahead, Stephanie.

Stephanie Perrin: Yeah, I just had a couple of points. And it related firstly to your thread about why we wouldn't want to see the identified responses. And I could be jaundiced from having worked in government but it's not been my observation that when you send out a questionnaire to people respecting a matter where they're supposed to be in compliance, if you don't provide anonymity you're not going to get your questionnaire filled out.

I mean, I leave it to staff to answer those questions. But I think we won't get the results from that survey we're sending out if we say, "Oh and by the way we're going to show everybody that has - all the stakeholders your responses."

So I think that merits a bit of discussion. I can understand why you want to know what people are saying but I'd be surprised if you got good compliance. After all, why do they have to answer the survey? It's a lot of work.

My second point - and I attribute this to my newness so my apologies. In the threads that have been discussed we're getting right down to what I would call criminal law policy on matters of international jurisdiction or non jurisdiction. And I agree that those cases with the online pharma are serious cases.

But I'm wondering what the legal authority for ICANN to solve them through contract is. So I'm just - if there's been any legal work on this I'd love to read it or if there's been - there must have been some research done before this recommendation was made in the Accreditation Agreement so as you're setting some criminal policy things through contract.

I'm not a lawyer. I'll say that every time I open my mouth. Thanks. Those were my two points.

Steve Metalitz: Okay. Thank you, Stephanie. This is Steve Metalitz responding to Michele. I did characterize one of the submissions that I made to the list and if that disqualifies me to chair this meeting I'm happy to ask Marika or Mary to take the chair for this agenda item. Could one of the staff take the chair at this point?

Mary Wong: Steve, this is Mary. I'm happy to step in temporarily if you wish?

Steve Metalitz: Okay thank you. The other point - I agree with Michele's two statements. Not every proxy service - not every registrar has signed the 2013 RAA and even if they had not every proxy service would be required to disclose this information because they might not be offered by a registrar or its affiliate - or reseller.

So those points are right and that means that the published material - the material required to be published isn't going to be totally comprehensive. But ICANN staff, anyway, has indicated that registrars that are - that sponsor something like a majority of all gTLD registrations have signed the 2013 RAA so it's a pretty good chunk.

And it would - this information is required to be published anyway. So it's - I'm not asking that we - in this - we would not be asking anybody to provide information that they're not already required to make public.

And I don't think it's an either or necessarily between the - what the Experts Working Group is - has generated here. And asking the staff to simply compile what's already been made public by service providers. And if Stephanie is correct that they'll be a better response from - to this survey if it is anonymized then so be it. But I am suggesting that we ask the staff to, in

addition, compile the disclosures that are required to be made under the 2013 RAA.

So I'll now end my intervention and I guess Mary can see if there are others who want to speak.

Mary Wong: Thanks, Steve. I don't see any other hands up in Adobe Connect but if anyone else would like to chime in on Steve's point or perhaps on Stephanie's question please go ahead. Stephanie, I don't know if your question was specific - or your observation specific to any of the questions in the draft survey or whether it was more of a general question.

Certainly in ICANN's contract there is a compliance element. And with regard to the specification - I think what we're talking about here is the temporary specification to the 2013 RAA. And so to the extent that this working group has some further input or changes to suggest that that certainly would be something that would affect the outcome of that specification.

Steve, at this point I'm wondering if it would be beneficial for us - I'm sorry, Margie, you had an intervention? Go ahead please, Margie.

Margie Milam: Yes, this is Margie Milam with ICANN staff. Steve, I guess the output we're trying to reach from this group is a recommendation that would go back to the Expert Working Group for them to update their survey.

So if there's consensus in this group related to, for example, the 2013 RAA issue that you've discussed, then I suggest an email be sent - whatever the outcome is - an email be sent to the Expert Working Group and then they can - because we only have a few members here from the Expert Working Group. And I think the right approach would be to send an email to the Expert Working Group and then they can decide if they want to update the survey in accordance with the suggestions from this group. Does that make sense?

Mary Wong: Thanks, Margie. I guess it does. This is Mary for the record. And there's really two things I was going to say. And I see that Gema and then Steve has been put in the queue so maybe I'm jumping the gun a little bit.

But there's - I guess the feedback that we seem to be working on at this point is first of all, whether there's any comment substantively on the questions as they are? And secondly to Steve's point, perhaps a request from this working group to the EWG that some compilation of the data and responses be made in addition to the general aggregated response.

So I'll just keep quiet now and, Gema, I'm sorry if I'm mispronouncing your name, please correct me if I got it wrong, but please go ahead.

Gema Campillos: This is Gema. Can you hear me?

Mary Wong: Yes we can...

((Crosstalk))

Gema Campillos: Yes. Hello, good afternoon. This is Gema Campillos from Spain. I don't have any particular comment on the question. I want to intervene on the issue of (over) aggregated or specific information. I just wanted to give a quick answer to Stephanie - sorry (unintelligible) her name - about the jurisdiction issue.

And I think this is the most challenging question this group has to address. I have received an answer from you confirming that my concerns regarding proxy and privacy services for within the scope of this group. And I think that ICANN has the ability to deal with this issue.

We cannot wait until governments - and I work for a government - agree themselves on a new treaty on how to deal with requests to reveal data or to take down content.

So I think that by means of the contracts that are signed with ICANN all maybe by these accreditation - pardon me - accreditation of proxy and privacy services some conditions can be imposed on proxy and privacy services so that they can reveal - disclose information of the holding or the individual that is carrying activities on the Internet who is hiding - they had that anonymity.

And these all have to be provided for in the accreditation agreement. So I think the remit of this working group is to work out how this question can be dealt with. Sorry not to be more specific because we are at the very earliest stage now in our study. But my main concern now is that we sit to deal with this issue seriously. Thank you very much.

Mary Wong: Thanks, Gema, for that. And thanks for your earlier contributions to the list as well. You know, some of the issues that you raised, and I think (John) and a couple of others have weighed in on the list as well, may be something that as this group goes more in depth into the substance of some of the charter questions that this group has been charged to explore that that may be a place where these discussions can take place as well.

               Can I go to Steve Metalitz?

Steve Metalitz: Yes. Thank you. This is Steve. First I would agree with the - Gema's comments just made. That is really what our focus is on this group. And of course the Expert Working Group has a much broader focus. I mean, they have a lot of issues to deal with. This is one of them and an important one, but they have many, many other issues.

               So - and I have no problem with the survey that they've prepared. I think it could provide some useful information. And I don't have any - necessarily any changes to recommend to it. But don't we also have - in order for us to do our work, I think it would be useful for us to have information about the practices

that are existing now. And the published material under the 2013 RAA specifications is one good source of that.

So I guess I would like to ask that the staff of this - serving - supporting this working group look into compiling that information as a resource that we can use to find, you know, to indentify some of the practices that are in use now. Perhaps some best practices that could really inform our deliberations in terms of accreditation standards.

And I think this would be valuable for our work -- totally aside from what the experts working group is going to do. So that would be my request. Thank you.

Mary Wong: Thanks Steve. This is Mary again. And so a couple of things here Steve. I guess one question would be whether there is agreement or consensus from the working group members on the call. And I don't know if (Michele) has a further comment on this -- that this will be a request from the working group as opposed to saying an individual or a constituency request.

And secondly, whether or not therefore see - you would like this to be added to the survey as an additional question or as a link?

Mary Wong: Steve? (Michele)? Steve, go ahead.

Steve Metalitz: You want me to respond? I don't think it needs to be on the survey. I mean it could be, but the survey -- we haven't gotten to that agenda item yet. But that's a very detailed survey. It's not - we're not going to get responses necessarily quickly on that.

I would just like to suggest this and I agree -- let's see if others on the working group think it would be useful. Thank you.

Mary Wong: Great. Thanks Steve. So maybe we can pick this up on the mailing list later today as well. I see that there's some agreement in the Adobe Chat with the point. In the meantime, can I go to Stephanie please.

Stephanie Perrin: Thanks very much. I just wanted to come back on that legal question. I understand that we're basically trying to do -- through contract -- what governments -- and I would ask the forbearance of my colleagues on the EWG -- because they've heard me banging on about this for numerous months.

We are basically doing through contract what governments have not figured out a way to do. This is an old question. When I worked on it in the early 90's we knew these things were coming. I'm a little dismayed because, you know, it's not a given that even if we figure out how to spec conditions and contract that require proxy registrars to do reveals on people -- that that necessarily complies with law in the jurisdictions that we're talking about.

And it certainly makes the registrars agents of the crown in my jurisdiction. And that's something that one always approaches with some trepidation. So the fact that ICANN is doing this on behalf of the global Internet community, I'd just love to see the legal work that has said, yes, sure this is well within your (REMET). Go ahead and do it.

I understand the needs. I understand that we've got a fake pharma that's killing people. But in my country we can't even get a law through Parliament that allows the police to get phone number information. So this is deeper than that. So I just want to put that on the table as it's something that if this group doesn't do the work on it, who does?

It's kind of outside the (REMET) of the EWG. As Steve said. We've got a lot on the plate of the EWG. But I'm not at all convinced -- or at least I haven't see the work that has convinced me yet that this matter can just be sort of said, okay, yes, sure, we can do it. Thanks.

Mary Wong: Thanks Stephanie. I'm not certain that the question that you asked -- which is a fairly broad general question as something that certainly I think the staff on the call are not equipped to answer at this point. It may be that your observations would have some relevance - a great deal of relevance to, again, some of the charter questions that this group is charged to explore.

So thank you for the contribution and perhaps this group can delve deeper into it when we get to that point. As we mentioned, with the EWG survey, there's already a lot of substance and questions in there. And this is probably not something that is intended to be covered.

So we'll probably get back to your points in the course of this working groups deliberations. I see that there's some chat going on in Adobe as well with some observations by (Ben), Kathy, and others. Would someone else like to comment either on Steve's or Stephanie's point or raise an additional point regarding the EWG survey?

Kathy, I note your question. I have to say that for my part I have not seen a posting. But let me check with my colleagues as to whether or not the mail that you sent went to the list or has been lost somewhere and I'll get back to you on that.

Steve, at this point I don't see any other hands raised. Stephanie, I assume that's a hand from your previous intervention. So perhaps what we can do about this agenda item is to continue to ask the working group via the main list for feedback today and tomorrow that hasn't been discussed today.

And perhaps also discuss on the list your suggestion with regard to publication of the information with the aim to get working group feedback and suggestions back to the EWG and the staff supporting the EWG by this Friday so that they can proceed to send out the draft survey.

Steve Metalitz: This is Steve. That's fine with me. I don't -- as I said -- I don't have any other comments on the draft survey. And I'm happy for you to continue to chair Mary. Or if you want to hand it back to me for the next agenda item, we can do that.

Mary Wong: Well, Steve, thanks. I was just about to suggest that I hand it back to you for the next agenda item. I believe the working group member survey. So thanks very much.

Steve Metalitz: Okay. Thank you. Okay. So we're onto, I guess, Item 5 -- update on working group member survey. This was what was sent out. It's a little bit of confusion about these surveys. This is one that - this is basically sending the charter questions out to the members of this working group for their responses.

That's not the right document that's on the screen right now. This was the survey monkey. Oh, well, this is - it's headed proposed grouping of charter questions. So I'm not sure if this is the same document or not. But let me ask Marika -- who has her hand up -- and I'm sure can explain where things stand on the members survey. Marika?

Marika Konings: Thanks. Yes. This is Marika. And I apologize for the misleading heading of this document. But what I just did briefly before this call is quickly look at the survey responses received today and actually inserted them into the proposed grouping of charter questions.

So working group members can have an idea of the feedback we've received today and maybe provide a little bit of, you know, background on them as to dissert the purpose of the survey. I think the idea is that the working group members have an opportunity to provide their feedback or input on the different charter questions -- which then will hopefully provide a kind of, you know, indication or starting point for the working group or potential sub teams to look at these items and make it as well, a flavor of where the different positions are.

I think in addition the hope is that through a survey like this we may get an idea of which of the questions that may already be kind of general agreement on what the answer is -- or approach may be -- or which questions are very controversial or where, you know, responses are very far apart.

So, so far we've received four responses from different working group members. And as I said, you know, enough that's helpful to share this with the list so people can actually have a look at what has been provided so far. And see if, you know, the responses that are there in a certain way reflect people's view or whether they feel that certain positions are currently not reflected there.

So you have an additional opportunity to provide that input. And now we can basically aggregate those responses and see as well where there's maybe overlap between those. We can see a little bit where the different positions stand which may, you know, give the working group a starting point to start discussions from as well as identify where the real hard parts are and which way may be some of the easier questions to answer where, you know, positions may lie and near to each other.

So that's where I think we currently stand.

Steve Metalitz: Okay. Thank you Marika. Let me open the floor to any comments on the working group members survey or on Marika's proposal that perhaps the responses received to date could be circulated on the list -- for responses I think.

Are there comments or reactions to that? I'm seeing any hands up. And I'm assuming that if there are people who are on the phone bridge but not in the chat room they will speak up if they want to be recognized.

Mary Wong: Steve, I believe Omar has raised his hand.

Steve Metalitz: Thank you. Omar, go ahead.

Omar Kaminski: Thanks Steve. Thanks Mary. I was just going to say that I haven't filled the survey out and was wondering if we still have time to do this or not.

Steve Metalitz: I would think we have, yes. Yes. I think there's definitely still time to do it. And the only question that was raised was whether the responses received so far should be circulated.

Omar Kaminski: Okay. Thanks.

Steve Metalitz: Marika, do you have a comment on that.

Marika Konings: Yes. This is Marika. I think it one of the questions for the working group will be how much additional time do people think is needed or necessary to allow for people to provide feedback is something is one of the other questions the working group may want to consider on how much time is needed. And (unintelligible), you know, start - can try to aggregate those all and compile the responses.

And, you know, as you said, Steve, whether people think it's useful to share what has been provided to date -- which you can also see on the screen. So indeed, if people see that their position is already actually reflected in the responses provided, that there may not be a need for you to complete the survey or you respond to those questions where you feel a certain position is not reflected.

Steve Metalitz: Okay. Thank you Marika. Other comments on this? Let me recognize myself.

Kathy Kleinman: Steve, I've got comments too.

Steve Metalitz: Who's that?

Kathy Kleinman: Kathy Kleinman.

Steve Metalitz: Kathy. Okay. Kathy, why don't you go ahead?

Kathy Kleinman: Great. Like Omar, I'm looking for - sorry. Let me mute my background. Like Omar, I'm looking - first, happy New Year everybody. And like Omar I'm looking for some additional extra time on this. I think -- especially in light of the italics that's just been posted -- which is way too much to really review. It's great. I appreciate staff's updating this material.

But there's not time in real time to sit down and look at what's been posted. So I think we need more time both to look at what others have posted as well as to think about what we'd like to post. One problem I'm seeing consistently across the questions is a dichotomy between commercial - between commercial organizations and individuals.

And where we need to do a lot of work -- and we need to do it very quickly -- is that there's actually three groupings -- at least three groupings, if not more. One is commercial companies. Companies organized for the purpose of providing commercial services or goods. The other is non commercial organizations for the purpose of providing non-commercial services -- information, education, and research -- that often happen to be incorporated as commercial entities -- like limited liability companies -- in order to protect their board of directors.

In case someone slips in a church, you don't want, you know, members of the church sued individually. You want to go through a process by which the church is protected and can handle it. Through a corporate entity can handle, you know, the problems -- any problems that might arise -- through a corporate entity and get insurance as a corporate entity.

So and then we have individuals and their personal privacy rights. But we - I think we have to go back through everything in the charter questions and regroup it as commercial companies, non-commercial organizations, and individuals because otherwise we're not going to be able to reflect the diversity of laws and the diversity of perspectives and concerns that we're bringing in. Thank you. Thanks Steve.

Steve Metalitz: Okay. Thank you. Thank you Kathy. And I assume that could be reflected in your responses to the questions. I think Mary has asked to be recognized. Go ahead. Does anybody else want to get in the queue? If not, I'll put myself in the queue after Mary. Go ahead.

Mary Wong: Thanks Steve. And this is Mary. So Kathy, as Steve said, I think that would be exactly the sort of input that would be very helpful. And I think what you've just said has very specific relevance to one or more of the charter questions with regard to the commercial and non-commercial distinction that the charter makes.

And as you recall, this was derived from earlier work done by the GNSO and elsewhere that we detailed - and some of the background information for this working group. So going back to Omar's question then, one of the things that perhaps the working group should consider is since we have meetings every week, when we come to talk about what the agenda should be for next week, maybe you could bear in mind a couple of things that this document really is trying to get at.

And first, how this started was the grouping of charter questions. As Steve pointed out, this is in the (unintelligible).

Steve Metalitz: Mary?

Mary Wong: A few people, Steve and (Don) included have tried to do is to group them in certain categories. What you see on the screen now -- for example -- one

category of the first category is covered services, eligible customers, and relations between them.

And there's several others as you go down the document. So I think one point of feedback that would be useful is whether or not working group members feel that the current grouping -- both in terms of the number of categories -- what they are -- and the specific questions listed within those categories. If you're agreeable with that, that would be helpful.

And secondly, the individual input and responses to the survey -- much like the one you see in italics on the screen and much as what Kathy and Stephanie has already said.

So Steve, I want to hand it back to you. But I just wanted to remind working group members that we're really looking for two things here. And maybe for next week you could have a discussion as to which of the two would be useful to discuss so that the group can move ahead with some of the substantive exploration of the issues.

Kathy Kleinman: Mary - Steve, may I respond to Mary briefly?

Steve Metalitz: Who is that?

Kathy Kleinman: Kathy.

Steve Metalitz: Kathy. Yes. Go ahead.

Kathy Kleinman: Mary, I think the answer would be thank you for laying that out. Two things. One, I think we do need to expand the grouping of questions with appreciation for everyone who's done the work to date. I think there are more groupings that need to be considered.

And two, I think we missed a document. When you provide the briefing document to the group, Who Is review team did a lot of work on this issue. And if it would be possible to circulate particularly -- the whole report -- but particularly Chapter 3, I think, we'll find that there has been thought within the ICANN community on some of the issues that I'm bringing to bear right now.

So if we could add that to - if you could circulate that -- the final report -- of the Who Is review team, I think that would be useful -- as well as the GNSO materials for our work because that was 18 months of work by a dedicated group of people -- some of whom are on this working group. Thank you.

Steve Metalitz: Okay. Thank you Kathy. Stephanie, is your hand up again? Did you have something you wanted to?

Stephanie Perrin: Yes it is. And I just wanted to raise a point and clarify something. I was one of the people that was citing to change the word privacy services - proxy services, privacy services that you see emerging in the EWG report.

And I was doing that because, frankly, it's confusing when you're living in a world of data protection as you're assigning privacy rights to groups. However, this came up in several of our discussions and I was - had to answer the NCSG on this issue. I've done further research and I'd like to say I think I could be wrong here. I still think we should change the word from privacy services to shield because it's clearer.

However, there's a lot of scholarship going on right now about the privacy of groups that - because of certain tendencies in data protection now and data mining, obviously -- so that the whole idea of certain groups being entitled to privacy regardless of whether they're incorporated, regardless of whether they're NGO's is important.

So we see this in Twitter groups and discussion groups and, you know. And I think it - I just want to put that on the table. I was wrong. I think Kathy

Kleinman was right on this one. So that's all I had to say. Sorry if that's kind of out of line in terms of the order of the comments.

Steve Metalitz: Thank you Stephanie. Kathy, did you have your hand up again? Or is that the old hand?

Kathy Kleinman: Sorry Steve. I did not.

Steve Metalitz: Okay. Gema did you?

Gema Campillos: Yes. Yes, yes, yes. Do you hear me?

Steve Metalitz: Yes, I can.

Gema Campillos: Yes. I've been more complexity to work. (The funny) - I think it's been (the funny) who hasn't spoken now. If (unintelligible) or you do take into account the distinction between commercial entities, non-commercial entities, and individuals to - as a basis to work on the working group, you have to take into account that there are individuals who carry on commercial activity in our privacy law -- in our data protection load. Those individuals are not given the same benefit as (unintelligible). Some individuals are not leading any commercial activity.

One remarkable example could be the ones also in a private books or music something like that who are using privacy services just to shield -- I like that word -- to shield themselves from authorities.

So I don't have any objection to that structure -- a commercial entities, non-commercial entities, and individuals. But I warn you to be careful when you chose the category of individuals. Thank you.

Steve Metalitz: Thank you very much. Okay. I'm in the queue here. And I just wanted to note in terms of -- we're talking about a deadline or when we expect people to

respond to this or what date we want to aim at. I just want to mention that we have a bit of a complication here because we're about to send out to the stakeholder groups and constituencies these same questions basically.

And so some of us will certainly be involved in discussing these issues within our constituencies and hopefully arriving at consensus positions on them. And it's, you know, we're kind of in a two track mode here with individual responses and organizational responses that we're also involved in.

So I just throw that in as perhaps we want to align the deadlines there or at least take that into account in setting deadlines. But I think we've had a lot of useful comments today and it'll be very - it will be very valuable to have people's survey responses where they spell out some of these points and make their suggestions.

I think James Bladel has his hand up. Does anybody else want to be in the queue? Go ahead James. James, are you on mute? We're not hearing you. So I don't know if you're on the phone bridge as well. Maybe that would be another way. Okay. We'll try to get back to him. Is there anybody - are there any other comments on this - on the survey?

And Mary is also kind of moved this into the next agenda items -- which is the proposed charter question groupings. And maybe it would make sense to go into that -- and we only have a few minutes left -- but just to make - get this in front of folks and ask for people's feedback on it. While that's coming up on the screen (unintelligible).

Kathy Kleinman: Can I make an additional point? This is Kathy Steve.

Steve Metalitz: Yes. Go ahead. And then Marika.

Kathy Kleinman: Okay. One thing -- as I look through what we're doing here and as I look through the idea of analyzing both the type of entity and the type of activity

online -- and which is what we're - what these questions are beginning to drill down into -- whether it's a commercial or non-commercial entity -- whether it's commercial or non-commercial activity.

I'd like to urge us -- and I'd like staff to help us overlay the scope and mission of ICANN on top of this. Traditionally ICANN has not been viewed as a content organization guise and reviewed very expressly our mandate as not being involved in regulation of any kind of content online.

And I think we're beginning to stray past that line that where ICANN PDP's and where ICANN work has traditionally gone. So let me raise that flag now and urge all of us to really think about it as we start looking at these questions, as we start looking at what we're asking for input on -- is within the scope and mission of what we're supposed to be working on. Thanks Steve.

Steve Metalitz: Okay. We'll try Marika and then we have James and Volker. Very quickly because we are running out of time. Marika, go ahead.

Marika Konings: Yes. This is Marika. Just to note that indeed Kathy has actually sent some additions on the list of thing to this document, but it's not on the screen. It's just the one that was pushed out later. And maybe just to clarify that the (unintelligible) on here come from the charter -- which is approved by the GNSO council.

So and those were already subject as well part of the, you know, primary issue we reported are derived from there. So they're already linked to the scope and discussion that was had in that document and there was discussion. So I noticed that I had (unintelligible) look, I think, at the document that Kathy sent -- which I think she's making these little edits and additions to this.

So one thing the working group will need to discuss -- in that case -- whether indeed that is an extension of the charter which may require further approval

by the GNSO council or whether some of those edits are merely just clarifications or maybe drilling down into the charter questions.

So as I said, I haven't looked in detail, but as you start making changes to the substance of these, this is one of the questions you'll need to ask. The grouping that has been done here is merely taking the charter questions out of the charter and trying to group them into a logical sequence or clusters where related issues and team come up or maybe helpful to consider those together.

So that is just, you know, to the background (unintelligible). So and I think what we're currently looking for and maybe what additional questions need to be asked or whether additional questions need to be added to the charter -- maybe a separate discussion. But I think what we're really looking for is, you know, have we grouped these charter questions in an appropriate way?

Should there be further categories or breakdowns in these? And I think that's basically what we're specifically looking for with regard to this document.

Steve Metalitz: Thanks for that clarification. James?

James Bladel: Hi. Thank you and this James speaking. And the last time I will trust the audio facilities of the Adobe Connect System. So I had quite a few points I wanted to weigh in on that were in relation to comments that were made by (Gema) and Kathy and Stephanie. But I'll just back off from those and state that it seemed like we were straying a little bit away from the process of finalizing this particular survey and the charter questions.

And we were digging into the substance, I felt, a little bit in a way that I felt maybe wasn't appropriate at this time. And then just wanted to point out that - well, I'll just leave it at that. I know we're running short on time. So thank you.

Steve Metalitz: Thank you James. And sorry for the difficulty in getting your input there. Okay. We do need to wrap up. I think in terms of next steps and the next meeting -- I assume the next meeting will be at this same time next week on the 14th.

Do watch for the clean versions of the outreach letters to stakeholders groups and constituencies and to SO's and AC's. That will be coming your way shortly. And we will need any feedback by Friday if possible. And we will continue the discussion on the list about the grouping. We did not really get to this, but please look at this revision dated January 3rd and provide your responses to that.

Again, as Marika said, these are the questions we've been given by the charter that was approved unanimously by the GNSO. So - GNSO council. So this is our starting point. Let's figure out what's the most useful way to group these either for sequencing of our operations or for sub groups or whatever - for whatever useful - whatever will be most useful there.

So I think since we're out of time, let me just thank everybody for their participation and please - hopefully you will be participating actively on the list on these questions between now and the next meeting. Thank you.

Group: Thank you Steve. Bye.

                                    END