

ICANN Transcription
Privacy and Proxy Services Accreditation Issues PDP WG
Tuesday 17 November 2015 at 14:30 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 17 November 2015 at 14:30 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-17nov15-en.mp3>

Attendees:

Alex Deacon – IPC
Chris Pelling - RrSG
Don Blumenthal – RySG
Frank Michlick – Individual
Graeme Bunton - RrSG
Griffin Barnett– IPC
Kathy Kleiman – NCSG
Lindsay Hamilton-Reid– RrSG
Luc Seuffer - RrSG
Osvaldo Novoa – ISPCP
Paul McGrady - IPC
Roger Carney-RrSG
Sara Bockey - RrSG
Sarah Wyld – RrSG
Stephanie Perrin – NCSG
Steve Metalitz – IPC
Susan Kawaguchi - BC
Todd Williams - IPC
Volker Greimann– RrSG

Apologies:

Holly Raiche – ALAC
James Gannon – NCUC
Christian Dawson - ISPCP
James Bladel – RrSG
Phil Corwin - BC
Darcy Southwell - RrSG

ICANN staff:

Amy Bivins
Marika Konings
Mike Zupke
Mary Wong
Glen de Saint Gery
Nathalie Peregrine
Gisella Gruber

Coordinator: Welcome to everyone. Good morning, good afternoon and good evening.
Welcome to the Privacy and Proxy Services Accreditation Issues PDP
Working Group call on Tuesday the 17th of November at 1430 UTC.

On today's call we have Chris Pelling, Don Blumenthal, Frank Michlick, Graeme Bunton, Griffin Barnett, Lindsay Hamilton-Reid, Osvaldo Novoa, Paul McGrady, Sara Bockey, Sarah Wyld, Steve Metalitz and Todd Williams. Apologies noted from Holly Raiche, James Gannon, Christian Dawson, James Bladel and Phil Corwin.

From staff we have Amy Bivins, Marika Konings, Mike Zupke, Mary Wong, Glen de Saint G ery, Nathalie Peregrine and myself, Gisella Gruber. And if I could please remind everyone to please state their names when speaking for transcript purposes. Thank you and over to you, Steve.

Steve Metalitz: Thanks very much. This is Steve Metalitz. Welcome everyone. Let me first ask if anybody has any updates to their statements of interest that they wish to make here. Okay we have an agenda you should see on your screen really dealing with three issues that we also discussed last week and hopefully we can make progress on them this week and in at least some cases wrap them up.

The first one has to do with some implementation guidance issues mostly regarding how our recommendations would operate in the realm of transfers of registrations between registrars and in the case of deaccreditation of an accredited privacy or proxy service provider. There was a call that the staff had with Susan Kawaguchi and James Bladel who are our two volunteers to

try to boil down what the issues were. And you are sent I think on Sunday a summary of that call. And our first agenda item was to walk through that.

Unfortunately James is not -- is not going to be able to join us and Susan has not yet joined us. And I'm not sure who from the staff was on the call but I'm glad to see we have Mike and Amy with us although I don't believe they were on the call. We need to figure out what to do with these issues and there are like three or four problems that are listed on this sheet.

And one suggestion has been made has been to proceed with our final report and keep working on an annex to it that would identify and provide implementation guidance on these issues. But I would welcome any feedback from the staff on this document which I guess you also saw over the weekend.

Since the staff has raised a number of these issues, although clearly members of the working group agreed that these raise some important questions, I would be very interested in staff's reaction to this. So Mary, I see your head is up. Please go ahead.

Mary Wong: Yes thanks, Steve. And hi everybody. I do want to give the time to Amy and to Mike who will help us take this forward. But just to add to your notes on this document, as you put it the question is what we need to be doing to what we currently have in our recommendations on the substantive side. And of course secondly, as you also mentioned the possibility is that for working groups that PDP does foresee them being able to give what is called implementation guidance.

And that would be that separate section or annex where the more specific principles for further recommendations could reside that Amy, Mike, James and Susan, would presumably be working on. So if we go back to that first point I just wanted to note that in this document if it would be helpful I've put in a bullet point what we currently have in the report that hasn't changed yet.

And so in terms of transfers, for example, you see on the first page and what those currently look like. And on the second page with regard to deaccreditation there is a note that there may be some further work to be done but hopefully members of the working group recall that we have also changed the way we have approached the deaccreditation recommendations that where they were perhaps overly specific in the initial report now we actually have them as I believe three general principles.

So again for both of these topics the question is do we want to tweak these recommendations further or should we keep them the way they are and have further implementation guidance on which I think we will take guidance from Amy, Mike and the others. Thank you, Steve.

Steve Metalitz: Thank you, Mary. So, yeah, so some of these additional problems discussed, there's four of them listed on this document and as well as Mary has pointed out she's pasted it in here what we currently have in terms of principles for deaccreditation.

So let me turn this over to Amy or Mike for their reactions and particular one question is posed here, number two, is deaccreditation - if I'm reading the same document - well there's a further update on this document. Wait a minute. Looking at the earlier - at the document that was circulated. If you look at the additional problems discussed there is deaccreditation principles that are listed there. Are those specific enough for the staff? Do you need more implementation guidance?

Obviously those are not intended to be specific enough for you to implement by themselves. But what else do you need and what else do you think that this group needs to address before it can move to a final report as contrasted with what could be contained in implementation guidance? So Mike or Amy.

Amy Bivins: Hi, this is Amy. Sorry, I was on mute. So unfortunately neither Mike nor I were able to be on the call Friday because of scheduling issues so we're coming at this document from the same place that most of you are. You know, we've seen the document that we haven't discussed it in detail with Susan and James yet.

So we had some preliminary feedback but I think we will probably need to discuss it a bit more with them. In looking at this, most of our feedback was actually related to transfers rather than deaccreditation. And we think that this is going in a good direction in terms of the ideas that are up for discussion with respect to transfers.

There was one issue that we wanted to flag for the working group though and it's how the new changes to the IRTP might impact this. Just briefly, the issue that we see is that if a privacy proxy service is changed, if there is a transfer, under the new IRTP-C that will be going into effect soon, this could trigger a 60 day lock on the transfer to another registrar.

And we just wanted to flag that for you guys because we weren't sure if that's what you intended or if you wanted something different, you know, there's still time to recommend a change there. So I don't know if anybody at this point has any thoughts about that or if you want to think it over.

Steve Metalitz: You're asking, Amy, whether we want -- whether this group wants to intervene in implementation of the IRTP? What stages that at?

Amy Bivins: No, what we're flagging for you is that the IRTP as it has been announced and will go into effect, the change of registrant by default when there's a change to the registrant there's a 60 day lock on transfers to another registrar. So, you know, if the working group, I mean, we can work with this in implementation but, you know, if the working group wants to recommend something different here. You know, if the working group doesn't want there

to be a lock it would be an opportunity if you wanted to recommend something different to do that now in order to avoid that.

And actually I don't know if Mike has any more here.

Mike Zupke: Thanks, Amy. So this is Mike Zupke of staff. You know, and I think the issue sort of sounds innocuous on its face but where we think there could be some concern is in the event of the failure or deaccreditation of a proxy or privacy service. It may be that the only recourse is for the customer of the domain name or the beneficial user to transfer to another proxy service. And that might require them to transfer to another registrar if there is no other proxy service at that current registrar.

So when it would conceivably mean is, you know, the proxy service that they're using is not reliable or is not forwarding communications or there's some problem with it. The beneficial user of the domain name may change the email address with their registrar to reflect their own email address so they can get the FOA or do what they need to transfer.

However, that could trigger the 60 day lock that would prevent them from transferring to another registrar. So effectively they're stuck with, you know, sort of this questionable registrar on record in order to, you know, protect their privacy for up to 60 days to make that transfer to another registrar happen.

So, you know, as Amy said I think we got lots of really good feedback from James and Susan about how to kind of solve the deaccreditation and the transfer problems. But this is the one that has sort of persisted. And it may be that this is what the working group intended and if that's the case fine. If you have other thoughts I think this is a fine time to recommend changes.

We don't see this as necessarily amending the IRTP, it's really, you know, it's the way that two policies would interact with each other. You know, we think

that's still kind of fair game but we don't see this as an implementation detail because the default position of the IRTP will be that the 60 day lock will apply. So we don't see it as a theme that staff could do started unilaterally or through implementation and say we're going to do a carve up for proxy or privacy services in the following circumstance. We think that that would probably not be consistent with the previous policy recommendations.

Steve Metalitz: Okay well but you are asking whether we want to propose a change in the IRTP because you say the staff can do this so you're asking whether this group wants to propose that there be some exception to the 60 day lock. Is that correct?

Mike Zupke: Yeah, I mean, I think that's fair statement of it. And you'll see in the notes that were generated by James and Susan there was a question, you know, should we review how the interaction works between privacy and proxy policy implementation and IRTP. And I think, you know, in my mind that something that you don't necessarily want to wait until implementation to do, it would be a good thing to do before. Everybody sort of signs off and says yeah, this is a good policy.

This is the area where we identify the possible interaction or maybe even a conflict of goals because there is this, you know, principle saying we want people to be able to maintain their privacy during transfers and during deaccreditation and we see this could actually maybe work against that. And maybe the presumption is, you know, consumers should not expect privacy if we don't have some sort of workaround in place.

Steve Metalitz: Okay I see the point which is being raised here for the first time I think. And I'm wondering why it's being raised now when we are within hours of actually circulating our final report, at least we hope so. Be that as it may can you guys send an email to this list spelling out what you think is the problem? And again it's not really spelled out in this document that emerged from the call so this is a new issue. Could you send an email to the list kind of - especially

since we don't have a huge turnout on this call spelling out what you think is the problem and what your recommendation would be for options for dealing with it.

And if you can do that today then that would certainly put us in a better position to decision whether this is something that - a staff issue that's been brought up here whether this should hold up release of our report. Is that okay?

((Crosstalk))

Mike Zupke: Yeah, Steve, we could do that. Sorry, we can absolutely do that.

Steve Metalitz: Okay great. All right other - I mean, I do see number three here says that there should be a compatibility check with IRTP. I don't see any problem with that as a matter of implementation guidance. But you're flagging an issue that you think needs to be addressed even before this report goes to the GNSO Council, before the Council acts on it, before the board acts on it and before an implementation team is set up, your argument is that this needs to be addressed now.

So let's see if we can get that on the list and we'll see if we can get that locked down and answered one way or the other in the next day or two. Are there other comments on this document or other reactions from the staff to this?

Mary Wong: Steve, this is Mary.

Steve Metalitz: Yes go ahead.

Mary Wong: I just wanted to follow up on the point that Mike has made and your discussion of that. As you noted in the second page of this document that there is a note about the IRTP compatibility check. And while on the call last

week the four of us did not specifically talk about the lock issue, it was one of the things that we noted as part of a general question as to the point at which some of our working group's recommendations might bump up against either existing policy like the IRTP or indeed, you know, existing contracts like the RAA which is a different point so the general topic.

So on that score that's why we noted here in the document that the current recommendation that we have is that when the time rolls around for the next review of the IRTP that privacy proxy services or rather the impact of the operations of privacy proxy services should be more explicitly examined.

And just to recall that this came about I think in the initial report because at that point there was a note that there was going to be some new implementation of the IRTP especially IRTP-C as Amy noted. And again, while we didn't explicitly go into the implications of the lock issue that Mike's just described, the assumption I think from the staff side and from maybe some working group members was that because this would be a change of registrant in effect, for example, yet this is something outside the scope of the working group. So all we could do was to have the recommendation the way it is.

So once suggestion that we could consider for our final report pending any other thoughts that Mike and others may have, is to take that recommendation and maybe put in an explicit note, you know, saying something like for example, with respect to the lock and the 60 day issue the working group has noted that this may be something to look at in the next review of the IRTP. So this is just a suggestion for the working group to consider. Thanks, Steve.

Steve Metalitz: Thank you, Mary. So just to be clear on that, this point 3 seems to be talking about the implementation team for privacy proxy rather than review of the IRTP. Current recommendation is that the next IRTP review should explicitly consider the impact. And so you're suggesting that in that current

recommendation we should add a note flagging this lock issue as an example, is that what you're suggesting?

Mary Wong: Yes because at the moment this current recommendation relating to the IRTP is fairly general. But secondly, we actually had placed in the deaccreditation section of the initial report because that was the point in the working group discussions where we talked about, you know, the dropping of privacy protections and this was one of the scenarios that came up. So it may be that in, you know, expanding on it that we should probably highlight it beyond just putting it in the deaccreditation section as well.

Steve Metalitz: Okay thank you. Is there any objection to Mary's suggestion that this lock issue be flagged as an example of an issue that should be addressed in the next IRTP review assuming that our recommendations go forward? Okay I'm not hearing any objection to that. And then if you look at point 3 here, should we recommendation that a compatibility check with the IRTP be done by the implementation team that is the privacy proxy services implementation team, when it comes to developing transfer and deaccreditation mechanisms.

I assume that - I can't see why we would have any objection to that. I think the issue that we're grappling with is whether something needs to be done before that. But is there any objection to what's down there as point 3, in other words, that our final report would recommend that a compatibility check with the IRTP be done by the implementation team for this policy when it's developing transfer and deaccreditation mechanisms. Is there any objection to that?

Okay I'm not hearing any objection.

Kathy Kleiman: Hi, Steve. This is Kathy. Can I just raise a procedural objection?

Steve Metalitz: Yeah, please. No go ahead.

Kathy Kleiman: Did - unless I missed it this memo came out about one o'clock yesterday. And so rather than everybody - some people might not have had a chance to review it. We do seem to be short on the call, a lot of people seem to be up in the air right now. Is it possible to go through with the group but also flag it for the rest of the group and give them until I don't know, end of day tomorrow to raise any issues.

Steve Metalitz: Yeah, I think that - that's fine. And we asked the staff also since there is an additional issue that they've raised, it may have been before you got on the call, we've asked them to circulate something today on that. But yes, we can have further reactions to this we're really just trying to see whether these issues are something that will prevent us from circulating, you know, are moving to the final report or whether they are issues that can be addressed in an annex...

Kathy Kleiman: Makes sense.

((Crosstalk))

Steve Metalitz: ...implementation guidance.

Kathy Kleiman: Makes sense. And I just wanted to ask a quick question, I asked it in the comments. Do we have any recommendations for the IRTP, you know, the next time that group meets. Like other things we are passing to them or is that all implementation, recommendations that we are passing to them for implementation with proxy privacy.

Steve Metalitz: Well that's the point that Mike Zupke raised as to whether we want to intervene in that process and the weigh in. So he's going to, with regard to the 60 day lock...

Kathy Kleiman: Okay, so he's going to help us with some recommendations on that, is that right?

Steve Metalitz: Yes.

Kathy Kleiman: Great.

Steve Metalitz: He's going to send a something that will spell out what we might do.

Kathy Kleiman: Great. Thanks much and sorry for being a little late. Bye-bye.

Steve Metalitz: No, that's okay. All right, we're - I want to keep the floor open here for any additional comments on this or questions about it. And again I think point 3 under additional problems to discuss shouldn't be that much of an issue. And on point 2 I think we are looking for feedback from the staff as to whether these principles are not enough for them so we will hope to hear from them on that today as well. Okay, are there any other comments on this?

All right, can we turn then to the other -- the next two items. One of them has to do with the definition of privacy proxy service providers. We circulated the language on this right after the last call building on some suggestions that came out of that call. Thank you. And I know there was some discussion on the list about this. This is the top part of the page that you see in front of you now.

So I'd like to open the floor for comments or reactions on whether this is a reasonable way of dealing with the issue that we have just spent several meetings discussing with regard to lawyers and web designers and others who may be registering domain names on behalf of somebody else. So again I'm not sure we had very many comments on this specifically on the list although there were some within the last 24 hours or so.

Let me just ask if people wish to weigh in whether this language is sufficient. The sentence is up at the top of - Paul has his hand up. If anybody else

wants to get in the queue please put your hand up in the Adobe and if you're not on Adobe just speak up. So Paul go ahead.

Paul McGrady: Thanks Steve. Paul McGrady for the record. I think this language is fine and there were other alternatives -- alternative variations but on a similar theme that were on the list this week many of which I also found it to be fine. I don't think that's by not wanting to be mandatorily roped in as a privacy proxy service that attorneys are trying to avoid responsibility for the domain names that are registered in their names. So I think its fine.

I think if lawyers were trying to avoid responsibility for domain names registered in their names and also not be roped in as privacy proxy service providers then that would be a difficult position to argue but that's not the one that I've been trying to argue so this language seems fine.

My only concern about this approach is because of recent rule changes UDRP rule 4b specifically, it just says privacy proxy service provider and the 2-D window for updating registrant information and it would be nice if we could figure out a way to stick accredited in front of privacy proxy for that just so that we're not undoing the good work of the folks who updated that rule over the last couple of years. Maybe we can recommend that or find some way to do that in our own work here. But other than that that seems to me to be an important but small and fixable implementation detail. Thank you.

Steve Metalitz: Okay thank you, Paul. Yeah I mean there is a timing issue here as there is with IRTP which is, you know, they're making changes and we're just recommending a policy so I think there's time for that, assuming that this moves forward, I think there's time for that to catch up with a needed change in the UDRP rules.

Let me ask if anybody else has any other comments on this formulation?
Kathy, please go ahead.

Kathy Kleiman: Hi. Just a quick comment that I know we've talked about this for long periods of time and gone back and forth. I'm okay with this language too. I think he gets us to a good point so thank you.

Steve Metalitz: Great. Thank you. Good then, you know, let's see if anybody else has any comments otherwise we seem to be in more or less violent agreement here that we can go with this so I want to thank everybody for their thoughts and for reviewing this.

Let's turn now to the second item on this sheet which is our agenda number four. And by the way I think Susan Kawaguchi is joining our call so we can turn back after she gets into the call we can turn back to the transfer and deaccreditation issue for a little more insight on that place.

But let's turn to the illustrative disclosure framework. And as you recall we circulated again right after the last call some proposed language on this. There were then some subsequent edits to that from members of subteam 3 which is, you know, who were the specialists on our illustrative disclosure framework. And I think that at least some of the members of subteam 3 have joined in putting forward the language that you see in front of you.

Let me ask if anybody from subteam 3 would like to walk us through this so that we can understand what this does, where this fits into the overall illustrative disclosure framework and we can open the floor for comments. I think Todd has his hand up so let me ask Todd to walk us through this.

Todd Williams: Thanks Steve. Todd Williams for the transcript. I'll go quickly and then turn it over to Kathy if she wants to supplement. Basically since the last big working group called our sub team has done two things. One, have focused on the second of the two options that we were considering. And second, have refined the language for that second option from the working group saw last week to what Mary circulated yesterday and which is now in front of you.

And with that language I think we are moving toward finalization of this specific issue end of the illustrative disclosure framework overall. Our hope was that the working group as a whole could settle on this language that's in front of you now and then if that is the case the only remaining thing would then be to go back to Section 2 of the illustrative disclosure framework and basically cross reference whatever language we settle on here with what goes into the request itself.

So I think that's essentially it - teed up for discussion unless Kathy has anything else to add.

Kathy Kleiman: Nothing else to add. Thanks Todd.

Steve Metalitz: Thank you. So basically yes, thank you for raising that point about the cross reference in Section 2, that would need to be done as well. So the idea here is that if I understand it, if you make a request for disclosure then you would have to agree to submit to the jurisdiction of your own home courts, which is pretty straightforward, and there will be something on the request form in which the provider says that there are disputes arising about improper disclosure or misuse of this information. They can be resolved in the courts of X - X country.

And - I don't know that wouldn't necessarily be where the provider is located but presumably it could be that. In any case it would be specified there. And then this would be part of the form in effect that you would submit. Now we understand there will be a single standardized form but I think the expectation is that this would be - a certain set of information has to be submitted, this could all be part of that.

And one of the concerns that was raised is how would the requester know, you know, which jurisdiction we're talking about. And I think you answered that by saying it would be in the request form. So and that would be spelled out in the list of what you have to submit in order to have an actionable

request for disclosure. Correct me if I'm wrong but I think that's what this says.

So let me open the floor first to any corrections of what -- my summary that I've just done or secondly, any other comments on this language.

Todd Williams: So this is Todd. No, that summary is accurate.

Steve Metalitz: Good. I see Stephanie and Paul so Stephanie, please go ahead.

Stephanie Perrin: Thanks. Stephanie Perrin for the record. This is just a question from a nonlawyer. About that use of the word "knowing" with reference to knowing misuse of information disclosed to it, does not adequately cover absolute carelessness, is that under misuse and not negated by knowingly?

Steve Metalitz: If anybody on subteam 3 want to respond to that? And this language has been there for a while in this process.

Stephanie Perrin: Yes, I apologize. I just was examining it now closely and that thought came to me.

Steve Metalitz: Okay. Todd, did you want to respond to that?

Todd Williams: I was just going to make two points. One was that procedural one that you just made which is that the language that we have been debating among the sub team hadn't really focused on that which has been kind of in there for as long as that language has been in the annex. Second, I guess I would turn it back to Stephanie and ask what would be an example of an unknowing misuse or an unknowing false statement? I mean, I kind of struggle to think of something.

Stephanie Perrin: Okay. Stephanie Perrin again. If I wanted to get someone in trouble I would just be sloppy and how I handled their information and unknowingly allow it to

slip out where somebody else could use abuse them. I think we're talking about people who are, for various reasons, where the actual applicants for the information might not be the only party that might harm them. So exact technical means of doing that is it transferring it in an unencrypted way? Is it obviously inadvertently slipping it into Whois would be a mistake that might be covered by that. You know, this sort of thing. Just utter carelessness.

Todd Williams: So...

Steve Metalitz: I'm sorry, Todd, did you want to respond to that? I see Paul is in the queue also so but, Todd, do you want...

((Crosstalk))

Todd Williams: Oh, I mean, just to kind of follow up with another question, you know, there's two different things that we're talking about here, the kind of improper acquisition by making knowingly false statements and then once you've got the information what you do with it. And I guess the points that Stephanie was making really only go to the second. I still struggle to see how somebody could make a unknowingly false or unknowingly make a false statement in order to get the information in the first place.

Steve Metalitz: Okay.

Kathy Kleiman: This is Kathy. I think you're right, Todd, it does apply to the second, the knowing misuse of information once it's disclosed or revealed. It's hard to hold somebody to something they do a unknowingly although it's possible. The biggest thing here I could see is if someone's database, if the rights holders database let's say they've collected a lot of reveals and their database is hacked. That would be an unknowing misuse of the information especially if it was misused by those who hacked it.

But it's very hard to hold people to an unknowing misuse. If somebody wanted to suggest some wording changes maybe, you know, I'm a call or afterward I guess we, you know, should look at it. But again, unknowing is hard. Thanks.

Steve Metalitz: Okay I see Todd and Stephanie in the queue. Todd...

Todd Williams: This is Todd. Just to get back on that in that scenario where the database is hacked I don't see how that is a misuse by the requester either knowingly or unknowingly. It may be a misuse by a third party that this isn't -- that isn't what this clause is meant to get to, it only governs jurisdiction as to the requester obviously.

Steve Metalitz: Yeah and I think it's also worth noting they're obviously could be other causes of action, other claims brought in other courts so, you know, this is not intending to be an exclusive list. Stephanie, go ahead. Sorry, Stephanie, is that a - I'm not hearing you.

Stephanie Perrin: Hello, can you hear me now?

Steve Metalitz: Yes, I can hear you now. Stephanie go ahead.

Stephanie Perrin: Okay good. Wonderful. Sorry about that. Stephanie Perrin again. I realize this is only one paragraph in a document and we may have covered it elsewhere but it's pretty routine that a law (unintelligible) abuse that happens is from carelessness and failure to protect adequately. So what we've got here is language that talks about knowing misuse and does not protect the individual in this situation where the receiver of the information is not following a do standard of care.

So I think that that would be a good thing to insert, possibly not right in this line but you could say knowing misuse of information or failure to adequately

protect it. Hacking is not the only problem that you might have. You might have very lax internal disclosure issues within your company. Thanks.

Steve Metalitz: Okay. Todd.

Todd Williams: Well I was just going to point out again, there's nothing in this that precludes the customer in that scenario from suing for whatever alleged lax internal standards they think they can allege. You know, this language doesn't create the cause of action, it doesn't preclude any cause of action, all it's doing is saying, you know, for certain categories of causes of action here's the jurisdiction clause. So, you know, again the kind of case that Stephanie is describing I just don't see any reason why that would be foreclosed by this language.

Steve Metalitz: Okay I see Kathy has her hand up.

Kathy Kleiman: Yeah. It might be worth looking at this in context and we don't have it in front of us and I don't have it in front of me. But there is something, and I referred to Todd because I think he wrote the language, where we added into Annex E or whatever it's called now, that for those people lucky enough to be in countries with data protection laws that when the data is revealed it has to be handled in a manner consistent with the national laws for data protection and data disclosure. So that may provide some amount of the protection that Stephanie is looking for at least in those countries around the world with data protection laws.

Steve Metalitz: Yeah, this is Steve. That is correct that that has now been added in terms of the requester. Okay well, Stephanie, I don't know if that's a new hand or an old hand but if it's new please go ahead. Seems to be old.

Okay, well alright so let's see if we can come to closure on this language. I see there are some points being raised in a chat about whether this should refer to right holder or requester. And I don't know if people have any

response to that. I think that's a drafting issue to make sure that this conforms.

Obviously the requester -- I think what they -- what I believe Kathy was trying to get at here in modifications to this language was that here we're not -- the requester might well be an agent of the right holder and here I think she wants the right holder to be - right holder's jurisdiction to be available rather than necessarily the requester's jurisdiction. So the right holder has to -- is supposed to be disclosed in this process. So I think that's the reason for staying right holder here but I certainly couldn't stand corrected...

Kathy Kleiman: No, that's exactly it. That we have agents acting - we've - they're already in affidavits saying they're acting on behalf of a third-party if indeed they are so here we're trying to get to the company or individual that ultimately responsible for the data. Thanks.

Steve Metalitz: Okay all right. So are there any further comments on this - on this provision? Okay, if not, thank you very much for the members of subteam 3 and others who worked to try to come to closure on this. I think we are really well along here on the illustrative disclosure framework which is an important part, not by any means the most important part but an important part of our recommendations.

We now have Susan Kawaguchi on the call. And if there is -- what I would like to do is switch back to this document that we first looked at which was the notes of the call. Susan, just to fill you in a bit, we have asked -- the staff did raise one specific issue related to the 60 day lock and the IRTP that they think might need to be addressed. We've asked them to kind of reduced that to writing and send it around to the list.

We have also asked people if they have any further thoughts on this to circulate them by the close of business tomorrow, which is Wednesday. And the other point I just wanted to review here is that we looked at this item 3 on

the second page here recommending a compatibility check with the IRTP. I think there was general support for that idea and also for flushing out our current recommendation about the next IRTP review perhaps by giving as an example the 60 day lock provision. So that's just too kind of fill you in on the discussion that was had at the beginning of the call about this document.

But, Susan, let me ask if you have other color or contacts that you want to provide to this document that you think would be helpful to those on the working group who are looking it over or to the staff members who are still on the call as they prepare the material we've asked them to prepare. Let me ask Susan if you have any comments to offer here.

Susan Kawaguchi: Thanks, Steve. And I apologize, I completely flaked on it, the meeting starting at 6:30 so.

Steve Metalitz: We appreciate you getting up early - getting into it early.

Susan Kawaguchi: Well I usually am up at 6:30, just not checking my phone and email. So I guess one of the questions I have is did you discuss any of the bullet points that James sent out because I think those are good discussion points.

Steve Metalitz: No we didn't. I mean, these are on this document here starting on the bottom of the first page going over to the second page. But we did not discuss those.

Susan Kawaguchi: Okay so one of the things that I guess on the first page that I just want to call out additional ideas for discussion is that if there is an inbound transfer of a privacy or a proxy registration first of all the registrar would decide whether or not to accept the transfer in because just like they do now they don't have to do business with everybody in the world. And so they should have a choice on whether they want that to be their customer.

Second of all that they could require a change of proxy service to their own accredited proxy service providers that they work with, either their own or if

they have a relationship with, and within, you know, X amount of days so it would be like 30 days. So you don't create a situation where a registrar who does not want to do business with, you know, a accredited proxy provider X is forced to do that because somebody has decided they wanted to transfer their domain to that registrar.

So I think those are two of the critical points that he has made and that we discussed, to give the registrar some latitude in who they do business with and what other entities are involved.

And then, you know, in further thinking of this I would think that because there is the implementation -- and we didn't discuss this part but I was thinking on the weekend -- the implementation of this whole process of accredited proxy providers is going to cause quite a bit of churn once this policy is implemented and so we do need to think that, you know, what is going to happen to all of those proxy either providers -- the ones that become accredited and then the ones that do not become accredited and the registrars that hold those registration -- or manage those registrations.

So I think there is further thoughts that need to go into this policy but I think we started down the right road to give the implementation team some direction.

Steve Metalitz: Okay thank you, Susan. Yeah those -- this is a Steve Metalitz I'll just give my reaction. Though sound like very good implementation guidance proposals and these are the types of things that need to be taken into account. Certainly your last point about, you know, the transition was difficult here is that we have now, you know, we have no accreditation, we have a lot of proxy services and privacy services and there will need to be some lead time for those to become accredited obviously, and some grandfathering.

All those things I think are implementation issues. I say that's not to minimize them because they are very significant issues but they don't, you know,

whether the grandfather period is one month or six months or how this transition is handled I think are not necessarily policy issues they're more - that's my reaction to that.

But let me open the floor to other comments or reactions on the points Susan has just raised some of which are -- most of which are listed here in this document and then the whole question of transition from an unaccredited to an accredited environment, whether there's some policy or policy principle we need to add.

Okay I'm not hearing any further comment. And I do realize that this is pretty complicated stuff and the document just was circulated Sunday evening. And we're still, you know, awaiting feedback from staff on it. Let me just turn now to the question of how we can integrate this into what we're doing on the final report.

I think we are pretty much at the point where we can circulate the final report -- and I'm going to ask the staff to correct me if I'm wrong -- we're very close to the point where we can circulate the final report for a consensus call and see if we can move ahead and get it published hopefully in time for the December GNSO Council meeting.

Now the question arises how do we deal with these issues that are spelled out on this document and that we've been talking about here, we're getting feedback from the staff and so forth.

One proposal that has come forward is to be working on an implementation guidance annex that would address these topics and that we think, you know, if we are confident that none of these topics require new policy work, and I'm not sure that we are necessarily in agreement of that yet, but if we are confident of that and it should be feasible to our policy recommendations ahead through the process and also continue work on an implementation guidance document that would I hope not take much longer, you know, much

more than a week or two to perhaps develop, perhaps I'm wrong about that, and that could then kind of moving parallel with this but is not necessarily part of the policy.

So that's my -- that's a suggestion on this and I'd like to open the floor to reactions about what way to proceed on this. Do we hold up our report and our consensus call in order to resolve any of these issues or is it possible to have kind of a two track strategy if you will? I see Paul has his hand up so I'll call on him. Anybody else please put your hand up in the Adobe or else speak up. Paul, please go ahead.

Paul McGrady: Thanks Steve. Paul McGrady for the record. I agree with the idea of an implementation issues annex. I don't necessarily think that we need to reach consensus on even guidance in that simply spotting the issues that we have spotted for the implementation team to look at and maybe taking the next step of referring the implementation team back to a specific policy that's been identified in the report.

So for example all these points about how to turn privacy proxy services on and off and white gate and how many notices to whom all essentially relate back to the policy that we believe that a registrant should be able to move from one registrar to the next and most likely from one privacy proxy service to the next without being exposed. And we can point to the part in our report that says that so that the implementation team knows that we weren't trying to undo policy by these implementation issue spotting exercise that we're going through now.

And I think that will do it. My concern about trying to work out all these implementation details before our report is finalized and submitted is that first of all, it seems to me more appropriate for the implementation team to work on but secondly, you know, we are falling behind. And so I think that we - if we had the luxury of more time we might indulge ourselves here but since we don't I think we shouldn't. Thank you.

Steve Metalitz: Thank you, Paul. Other comments on this? Okay I'm not hearing any contrary comments but I do, again I emphasize that not everyone has had a chance to review this document. But let's proceed on the assumption that we will have a separate implementation document, whether it's called a guidance document or an issue spotting document, you know, we can deal with that later. And if Susan and James are game to continue refining this working with the staff that would be, in my view, the idea way to do this. But let's at least provisionally adopt that approach.

And let me call your attention to the timetable that Mary has put up on the screen here. And it calls for circulating the final report and opening the formal consensus call on Friday of this week with the deadline - the close of the call being on December 7 so that's I guess a little over two weeks later.

And let me maybe turn to Mary at this point so she can make, you know, clarify what we would be being asked to do. And I know part of what working group members are being asked to do is that those that are affiliated with a stakeholder group or constituency are being asked to go back and socialize this final report and see, you know, get guidance from those groups. And it obviously takes a little while.

And I think that's one reason to have a - this two week period that we're talking about for the formal consensus call. And Mary, could you kind of go through this and again what we can expect to see in our inboxes at the end of this week and what we are being asked to do with it.

Mary Wong: Sure, Steve. And this is Mary. There's really not much to add besides what you said. The Working Group Guidelines for - and the PDP Manual does require obviously consensus. And it specifies various levels of consensus as some of you who have participated in past working groups would know. So one of the purposes of this consensus call is to allow the co-chairs to gauge

the level of consensus that we would have on each of the recommendations and then to ascribe that level of consensus accordingly.

This will make it a lot easier when the report goes to the GNSO Council for the Council to see which level of consensus a particular recommendation got and then to vote accordingly as well. So we've got anything from full consensus to other things lesser.

The other point to note here is then that we would obviously request that for those members that represent GNSO stakeholder groups and constituencies to expressly indicate if their groups support or don't support those recommendations. It could just be a statement of non-objection or something that says we support all of the following. You might also have some questions about a few of the specific recommendations or the language. But obviously if your groups have that then do bring that back to the meeting next week.

The premise here obviously is that to the extent that you've been speaking with the other members of your groups that you've been updating them on that as well. Obviously working group members also participate as individuals and so this is kind of, you know, an additional point to note again to measure the consensus.

Then finally, and this doesn't happen as often, which is a good thing, to the extent that there are any substantive objections and that folks or certain groups might wish to file, you know, individual or group minority statements, then those need to come in by the deadline as well so that they can be added to and sent onto the Council as an annex to the final report.

Steve, I think those are the main points that I just wanted to give a little bit of detail on.

Steve Metalitz: Okay yes, thank you Mary. And I guess I would suggest that when this does get sent out let's include those two - those points, defining the different levels

of consensus, asking to consult if appropriate with your stakeholder group or constituency, and then also the deadline for submission of additional statements, minority views or whatever on issues where you can support a recommendation. That - I think that all needs to be spelled out in the cover note that goes around with the final report.

Just to respond to Kathy's questions in the chat, so my understanding is that the final report would go out, the draft final report would go out on the 20th that is Friday. And the consensus call would open then. Now what we have on the schedule here is to have a meeting next Tuesday the 24th, and maybe have - maybe or maybe not have a meeting Tuesday the - the following Tuesday the 1st.

I guess one question I would have is obviously people might have some questions about the, you know, about the final report but in terms of this consultation with the working group - or excuse me, with the stakeholder groups and constituencies, I will say from a US perspective this is going to be a bit difficult in any case because of the holidays next week. But it's probably - I'm not sure it's realistic to expect that we will have gotten much feedback from our constituencies or stakeholder groups between Friday when this report comes out and Tuesday when we have our next call scheduled.

So I guess I'd like to get people's sense about whether we want to meet next Tuesday or do we want to just instead meet on the 1st? Or both? I mean, you know, that's also possible. But in terms of getting feedback from constituencies or questions that were raised in the constituencies and stakeholder groups I'm not sure it's realistic to expect that by the 24th. So let me just ask for comments and feedback on that. Paul has his hand up. Please go ahead, Paul.

Paul McGrady: Thanks. Paul McGrady for the record. In addition to the timeframe as being aggravated by the US Thanksgiving holiday weekend, it's further aggravated within the IPC because the INTA, which is an organization that many of our

IPC members participate in, also planned their leadership meeting the week before so this week the Thanksgiving holiday. And so to be able to get a significant response from the IPC by next Tuesday it seems really unlikely.

And sadly because of the holiday I don't know that the following Tuesday is much better but at least we can try to get people to pay attention to it, you know, in the nooks and crannies of their schedule that they have. Thank you.

Steve Metalitz: Thank you. I guess the good news is that of course a lot of this - it was also in the earlier draft report that people did - have. Okay other comments in terms of the timetable here? Okay maybe we can leave this to the co-chairs and the staff to decide whether we would have a meeting on Thursday the 24th - and in other words what the schedule now has is 24th of November meeting, 1st of December meeting if needed.

And I guess I'm suggesting we might flip that and we will figure out whether we think we need a meeting on the 24th but maybe we should plan on having a meeting on the 1st. To me that seems to make more sense because people will have had more time to actually digest this and - that's my suggestion going forward. Other comments or questions about this? Mary, please go ahead.

Mary Wong: Hi, yeah thanks, Steve. This is Mary again. So just to clarify I guess that Steve, as you and others know that the consensus call is amongst the working group participants so, you know, leaving that aside however the reality as Paul noted is that a number of participants probably would want to get some guidance from the stakeholder groups or constituencies.

So in addition to flipping the sort of default of the meetings and say we will likely to have one on the 1st and maybe one on the 24th, I think from the staff and co-chairs perspective if any of you think that any of the groups that you're in contact with are likely to not support a particular recommendation knowing it's sooner rather than later would be very helpful. Thanks.

Steve Metalitz: Yes, I certainly agree with that. And just to emphasize the point Mary said, you're, you know, this is a consensus of the working group the we're seeking here. It's not necessarily consensus of all the groups that people on the working group are affiliated with. So I think - and maybe its worth - I don't know if that's quite the right phrasing, Mary, but maybe if you can also point that out in your consensus call.

We obviously want to encourage consultation with the stakeholder groups and constituencies but we're really asking the working group members, the ones who have been in the trenches here, and working on this for two years now, you know, where they come down on our work product.

Okay, are there any other questions about next steps here in terms of the circulation of the final report and the consensus call? Okay if not I just want to recap here that we are looking for some feedback from the staff later today on these implementation issues of issues in the summary of last Friday's call from - with Susan and James.

And we're looking for any feedback from the group as a whole on that document by tomorrow and in particular any - if there are any concerns about the idea of moving ahead with our final report but also developing a implementation guidance or implementation issues document that would catch up with the final report hopefully very soon so that everybody that's looking at this whether on the Council or at the board would have a sense of what the implementation issues are that we would flag. So those are the two homework assignments that have come out of this call.

In addition, we have reached closure I think on the illustrative disclosure framework option two and on the definitional language. And I appreciate everybody's willingness to work to come to agreement on those. Are there any other topics or issues that people wish to raise? And thank you, Mary points out she'll get a final draft on the framework before Friday and that will

be obviously included in the document that she circulates at some point on Friday.

Any other questions or comments before we adjourn the meeting? If not thanks, everyone. We appreciate your starting early and as a reward we're going to end a little early as well. So we look forward to your feedback by tomorrow on these implementation issues and then we'll all look forward to getting the package from the staff with the final report on Friday. Thanks very much.

Paul McGrady: Thanks all. Have a great day.

Mary Wong: Thank you, Steve. Thank you, everybody.

Kathy Kleiman: Bye, everyone.

END