ICANN Transcription
Privacy and Proxy Services Accreditation Issues PDP WG
Tuesday 23 September 2014 at 1400 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 23 September 2014 at 14:00 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-20140923-en.mp3
On page:
http://gnso.icann.org/calendar/#sep

Attendees:

Steve Metalitz - IPC

Graeme Bunton – RrSG

Griffin Barnett – IPC

Frank Michlick – Individual

Don Blumenthal – RySG

David Heasley-IPC

Jim Bikoff-IPC

Chris Pelling – RrSG

Kathy Kleiman – NCSG

Darcy Southwell – RrSG

Phil Marano – IPC

Sarah Wyld – RrSG

Victoria Scheckler - IPC

Lindsay Hamilton-Reid – RrSG

James Bladel – RrSG

Val Sherman – IPC

Luc Seufer – RrSG

Alex Deacon – IPC

Carlton Samuels – At-Large

Todd Williams – IPC

Michael Palage - RySG

Christian Dawson – ISPCP
Keith Kupferschmid-IPC
Libby Baney-BC
Amr Elsadr-NCUC
David Cake-NCSG
Kiran Malancharuvil-IPC
Osvaldo Novoa-ISPCP
Tatiana Khramtsova - RrSG
Sean McInerney – no SOI

Apologies :
Kristina Rosette – IPC
Susan Prosser – RrSG
Michele Neylon – RrSG
Phil Corwin-BC

ICANN staff:
Mary Wong
Marika Konings
Amy Bivins
Danielle Andela
Nathalie Peregrine
Terri Agnew

Coordinator: Please go ahead. This afternoon's conference call is now being recorded.

Nathalie Peregrine: Thank you very much (Tim). Good morning, good afternoon, good evening everybody and welcome to the PPSAI call on the 23rd of September 2014.

On the call today we have Chris Pelling, Carlton Samuels, Libby Baney, Graeme Bunton, Steve Metalitz, Tatiana Khramtsova, Frank Mishlick, Sarah Wyld, Keith Kupferschmid, Darcy Southwell, Griffin Barnett, Don

Blumenthal, James Bladel, Luc Seufer, Alex Deacon, Michael Palage, Kathy Kleinman, Lindsay Hamilton-Reed and Val Sherman.

We have apologies from Suzanne Foster, Kristina Rosette in the Q&A room.

From staff we have Mary Wong, Terry Agnew and myself Nancy Peregrine. And Amr Elsadr has just joined the call.

I would like to remind you all to please state your names before speaking for transcription purposes. Thank you ever so much and over to you Don.

Don Blumenthal: I appreciate it Nathalie. First as usual please update your SOIs if there have been any changes since - well since the last time you heard the request. And we're going to - well first as the agenda suggests we have - we've talked about the face to face that's coming up.

We had a conversation with the (David) and (Thomas) yesterday and to get an idea of what they had in mind and provide our thoughts on the screen. And I guess as (David) went around here's kind of a overview of first kind of - and I hate to use the term ground rules, maybe rules of the road.

But we do want to try to have people thinking up front and then try to maximize the time we have. Because the more we talked yesterday the more I see some real value not that I didn't before but particularly with the difficulties we're having with this topic of there's some real opportunities here if we're still at in three weeks to make some headway to and maybe revisit some other issues where that we've left hang on.

Okay James. I'll tell you what; did Steve or Graeme pick up the overview of yesterday's session? I'll switch over to cell phone.

Graeme Bunton: Hey this is Graeme. No I can hear Don just fine.

Don Blumenthal: Oh.

Graeme Bunton: Maybe turn up your volume there James. Anybody else?

Don Blumenthal: Okay I was picking up on Graeme's was quiet. So okay I'll keep yakking then. Sorry about the detour. \

In any event not to just be a really, really valuable time we'll - and I'm working off two computers here for reasons that make sense now but we'll do kind of a review I think of everything. And this is tentative but there - but then focus in on specific topics.

We hope to ask people to who are interested in specific areas to at least do some intros and maybe lead discussions, give some different perspective d- some different voices. Excuse me, have some different voices in front, Graeme and Steven really a chance to rest a little bit watch or James.

To that end we'll be sending out suggested topics for focus that staff will look at but certainly with the opportunity for people to say we've - that we need to have made different choices in terms of what we'll begin with and then we'll get to if we have time.

Any thoughts on these what we sent out preliminary basis are more than welcome. We'll be talking with (David), (Marvin) and Mary and Marika, (David) and (Marvin), yes never mind, (David) and (Thomas), Mary and Marika between just in schedules (unintelligible).

Any thoughts or comments right up front on what got sent around or what got said here?

Is that Steve, did I just missed him?

Steve Metalitz: Yes. Thanks Don. This is Steve Metalitz. Yes, my understanding from our discussion yesterday was that we'll try to identify two or three additional topics beyond Question F because those - I'm assuming we'll still be working in some area of Question F in two weeks, hopefully farther along but not done.

And so I guess the idea would be to see if there are a couple of other areas that need further work or that where we've left something unfinished in the preliminary conclusions. Is that - that's my understanding anyway. And maybe the staff and clarify what it is they will be sending out.

Don Blumenthal: I think that's, yeah, I think (unintelligible) details (unintelligible) details is true. (Mary)?

Mary Wong: Thanks Don, thanks Steve. And I think that's right that, you know, the assumption is that even while we might be still working on certain aspects of Category F that the staff would this week go back to all the preliminary conclusions and identify a few topics that as Don mentioned we would send to the list as recommending for discussion in LA and giving working group members to the opportunity to weigh in to, you know, if they feel that there are actually other topics that they feel should be discussed or that would take priority over some of those that was suggested.

And we'll try and get to that. In fact we will get to that this week. So please look out for a note from us.

Don Blumenthal: Kathy did you have your hand up? (Unintelligible) Okay.

All right then let's jump into F. Be nice to think we're being pessimistic about finishing F before Los Angeles but this is just probably not - probably not realistic.

Going ahead and (unintelligible) did a draft instead of (unintelligible) the functions (unintelligible).

This is for the - I'm going to stress it more than usual. This is a draft F (unintelligible) need to send something out, wanted to send something out so we had something solid to discuss along - but we - since then we've had a lot more substantive things come in in an email (unintelligible).

And note right now I'm seeing comments in chat but (unintelligible) where I have let me go back to Plan B here in the UK. Maybe it's going east instead of west. Oh, Don oh perfect.

Nathalie why don't I just get on a phone. Maybe that'll be good for (Chris) I got a headset. I'm going to switch to phone if somebody else could pick it up cause that old (unintelligible) is consistent.

Mary Wong: Thanks Don. Everyone this is Mary. Graeme or Steve or I think it was Graeme would you like to pick it up for now?

Steve Metalitz: Well this is Steve. I think we've got the document up and it might make sense just to go through this. There are a few - these are preliminary conclusions. And you get farther into the document there's some brackets about open issues. But I wonder if we could just walk through what's on here.

The first page is mostly definitions of publication, disclosure and a working definition of law enforcement authority to the extent that that becomes relevant.

So let me just ask if people - I know this was sent around I guess last night. I wonder if people have any comments on first these recommended definitions just so we have our terms straight about publication, disclosure and law enforcement.

Okay not seeing any - oh James has hit hand up. James, go ahead.

James Bladel: Hi Steve. Thanks, James speaking for the transcript. I think the disclosure could perhaps be just a bit clearer by saying at the end here that identity contact reveal of a person's identity is contact to a third party requestor from a without publication in the Whois system.

I think just making that distinction explicit might be helpful. Thanks.

Steve Metalitz: Okay that sounds like a friendly amendment. Any other comments on these definitions?

Okay moving along to - and I think you all could control this screen, general recommendations on publication and disclosure.

I think if you look at what's in bold those are the kind of substantive points that we - that based on this document it's proposed that we have preliminary agreement on.

And obviously there are some areas that we haven't reached agreement on. So let me - I think if you look at the first bolded phrase is about accredited providers. This has to do with terms of service of the service.

The credited provider should indicated clearly in their terms of service when these terms refer to public request and their consequences and when to disclosure your request and their consequences.

So in other words you should distinguish between those if there's any different policies, different standards, different methods of processing these depending on whether it's a disclosure, request for disclosure only to the requestor or a publication in Whois.

And that a accredited provider should indicate clearly the meaning and consequences of publication in their terms of service.

So I guess that they should spell out that if you - if your contact information's published and in effect you're - you know, you're out of the service.

I certainly welcome any further explanation from the staff on these points or any comments or questions on these.

And again these are kind of disclosure, you know, spelling things out in your terms of service type obligations. They're not substantive in the sense of how you would process disclosure and publication request, just spelling out, you know, how you would do it.

Mary go ahead.

Mary Wong: Thanks Steve. Hello everyone. This is Mary for the record. Just as Steve said that this recommendation was meant to take forward the station and the definition that this group has developed for publication and disclosure.

And specifically referring to publication as Steve said because the Working Group in an earlier conversation didn't recognize that some of the consequences of publication and Whois may be more drastic for some folks and they definitely require more safeguards. That's where the second recommendation came from.

And just wanted to say also that thanks to the providers who sent the terms of service, as we noted a couple of weeks ago there is some commonality but also certain differences.

So a recommendation like these two was meant to at least try to get to some sort of common uniform minimum standard. Thanks Steve.

Steve Metalitz: Okay thank you. I see Kathy has her hand up. And I'll just note by the way in terms of in the chat two things.

First yes, this is not the final look at these and we know people just got these last night so further comments I hope will be shared on the list.

And then I see Don is back so I'm happy to turn the gavel over to him while Kathy has her intervention. Kathy go ahead.

Kathy Kleinman: Great, thanks. I don't quite understand the last line which seems to be a duplicate of the line before. So just point that out, the Working Group recommends the accredited providers to indicate clearly the meaning of

consequence of the publication and their terms of service. I think we just said that in the sentence before.

But let me throw out an additional line and ask what people think that when and how a customer will be contacted will also be included in the terms of service?

So I'm not saying we have to say when and how a customer will be contacted in cases of reveal or disclosure but that whatever the proxy privacy provider has decided will be laid out in the terms of service basically in some ways so you can take, you know, put somebody, you know, if you're going to be communicating by email proxy privacy providers communicating by email with the customer they'll at least have some notice that they should white list an email address, a certain email address.

Thanks. Steve?

Steve Metalitz: Mary is that - or Don are you back in saddle?

Don Blumenthal: I'm trying to figure out exactly where we are and which line was - were you...

((Crosstalk))

Steve Metalitz: We're in the third paragraph of the second page.

Don Blumenthal: Oh progress. I tried to hold the earpiece while I was by fiddling with the phone and it just didn't work.

Steve Metalitz: And I think Mary has her hand up...

Don Blumenthal: Yes.

Steve Metalitz: ...perhaps to respond to Kathy's question.

Don Blumenthal: And that will give me another minute or two to vamp.

Mary Wong: Yes thank you Don, thank you Steve and thank you Kathy.

We could probably rephrase these two sentences or at least the second one and maybe make it clearer.

I believe the intention here was that for the first bolded sentence there was simply a general notion that if in somewhere in your terms of service your provider you're talking about say grounds for taking certain action or what might happen that you make it very clear whether you mean publication or disclosure or both.

And the second sentence was meant to say when you're talking about publication then please make sure that you spell out for the customer exactly what that means. So like I said, we can probably rephrase that. They were not meant to be duplicative.

The point about notification of the customer I think what happened here was that we broke out these recommendations into first general recommendations which is where we are and then we moved into more specific recommendations.

And you see at the bottom of this page we talk a little bit here about LEA requests. But those are, you know, to be decided and to be added.

Then further down in the document you see a potential recommendation for notification of the customer.

So just to say that that's in there and maybe that's something that might be appropriately dealt with as a specific recommendation after discussion by this group. Thank you.

Steve Metalitz: So this is Steve again. So Mary you're referring to the Page 3 where it says Working Group recommendations on customer notification and the availability of alternative options so...

Mary Wong: Yes. That's right.

Steve Metalitz: ...I wonder if Kathy is that responsive to your concern?

Obviously these could be put together, you know, edited differently but is that responsive to your concern about it that you have in the chat?

Kathy Kleinman: I think so. Thank you very much.

Don Blumenthal: Okay appreciate it Kathy, Mary Steve for carrying the conversation on. How have we been - how are we proceeding when I was distracted there because...

Steve Metalitz: Don we're just this is Steve. We're...

Don Blumenthal: ...are we just going through the document methodically or just asking for questions?

Steve Metalitz: I'm just walking through the document. And we had gotten to focusing on the bolded stuff because those are recommendations.

And we'd gotten to the, you know, the middle of Page 2, the third paragraph those bold, the recommendations. So if there are further comments on that we can continue or else we could move on to the next paragraph I think.

Don Blumenthal: Okay. I appreciate it. I guess Steve just said all that needs to be said or are there more comments or should we move on?

Okay. I guess that...

Steve Metalitz: Well...

Don Blumenthal: Oops, go ahead.

Steve Metalitz: This is Steve.

Don Blumenthal: Yes?

Steve Metalitz: I just had a comment on that next paragraph if that...

Don Blumenthal: Okay.

Steve Metalitz: ...if were ready to move on to that?

Don Blumenthal: Sure.

Steve Metalitz: Okay. So this says accredited providers should indicate clearly in their terms of service the specific grounds on which a customer's details may be disclosed or published or service suspended or terminated.

And I guess my question is - and I don't have a problem with this in substance but I'm wondering how this differs from what's in the interim specification in the 2013 RAA in which one of the requirements is - well there's several requirements for what providers have to publish on their Web site and/or registrar's Web site.

And one of them is the circumstance is 2.44 the circumstances under which the privacy proxy provider will terminate service to the privacy proxy customer.

And in 245 the circumstances under which the PP provider will reveal and/or publish in the registration data service or equivalent service the PP customer's identity and/or contact data.

So kind of leaving aside the fact that we've tried to regularize the definitions here it sounds to me this is pretty much what the providers are already required to do, at least those providers whose services are offered in connection with registration sponsored by a 2013 RAA registrar. So I guess that's my question is does that require - does this go at all beyond that?

Don Blumenthal: James?

James Bladel: Hi Don. Thanks, James for the transcript. And so Steve I think it's a good question.

And one of the things that I've been wrestling with is what happens to the temporary specification once this is, you know, once we have a fully developed accreditation program?

And it seems like this - all of these things if we want to preserve them have to be duplicated in the full-blown program so that this one can go away that would be superseded by the new accreditation program.

At least that's my thinking and I may have lost a handle on that. But, you know, I'm thinking that anything that we like and want to preserve from the temporary set that needs to be explicitly duplicated in the final program.

And maybe Mary's going to set me straight on that.

Mary Wong: Thanks James. This is Mary. Don if I may speak?

Don Blumenthal: Yes certainly.

Mary Wong: And James I wasn't going to set you straight. I was actually going to confirm what you and Steve have said as well.

As you know that that - as both of you know that the current spec does cover this point and presumably that spec goes away and is replaced by something else, you know, in terms of formulation , or language or even documentation.

So the question that Steve asked I think was to also ask the Working Group if there's anything in the spec that you would like to see retained or retained but refined in a certain way we can certainly word this recommendation that way.

In the current document you have before you the reference to the spec is in the footnote. And you may well believe that it would be better to tie them both together.

So for example the group might say, you know, at a minimum what is prescribed by Section 2.4 and 2.5 of the specification?

And Steve has already noted that they're pretty similar except that at this point the working group is specifying the differences between publication and disclosure and those should continue in whatever replaces the current spec.

I think the only other point I would make is that the current spec talks about the making available of the terms of service either on the provider's Web site or the registrar's Web site if they're affiliated.

And again this may be a minor point but the working group might want to specify where and how those terms are made available. So thanks very much.

James Bladel: Hey Don this is James. Can I respond real quickly?

Don Blumenthal: Sure.

James Bladel: I think Mary that's in line with what I was thinking and I think that's also supports Steve's comments - Steve's comment.

Just one thought here is that right now both the RAA and the temporary specifications or obligations on registrars presuming of course that they haven't affiliated service.

Now in the future the RAA would apply to registrars and the PPA or whatever results from this, the privacy proxy accreditation agreements would apply to the privacy service.

So I think that while we're working through these issues if we want to retain something from a temporary spec we need to decide also whether it falls on the registrar side of the fence or the privacy proxy side of the fence and make sure it gets into the right document.

And actually it's not really comments or a question. It's more of an observation as we go forward. Thanks.

Don Blumenthal: Yes, thanks James. Yes I kind of was following along with everybody.

I think anything we do will have to be stated explicitly you know just to address due to the fact that this will replace whatsoever in the RAA.

So while it's good to take note of what - of the temporary specs when it comes time for them I would think we just proceed as if they don't exist.

And yes there's going to be a whole lot of that (unintelligible) I think all along the way and even at the end Kathy. Just like to at least get the issues out there and some thoughts so that they're ready when the time comes.

Are we clear on this point or as clear as we're going to get today?

Okay any other comments as we go down the page?

And I guess partly I'm going to toss things at Kathy just to ask to the extent to which the last item here at least at the beginning of your question about UDRP.

Kathy Kleinman: Sorry Don was that a question for me? I'd stepped away from the phone for a second.

Don Blumenthal: Well let me - okay I'm going to let Steve jump in but I had asked if there was any comments as we go down the page and specifically asked if anything in the last item was the beginning of an answer to your question about UDRP?

Kathy Kleinman: Oh.

Don Blumenthal: But Steve?

Kathy Kleinman: Thank you.

Steve Metalitz: Yes so this is Steve. So we're talking about this and deciding whether or not to comply with the disclosure or publication request providers not mandate that the requester must have first made a relay request.

And then I, you know, actually this doesn't really show up on my copy here but there's a board comment there from Mary basically that this is what we preliminarily concluded when we talked about relay. So that's why that's in here as I understand it.

And I'm fine with this as it's written. I think it's - it may be I don't know, it might be clear to say that it not be determinative whether or not the requester has first made a relay request.

In other words I think it's appropriate to take that into account. I mean if you again, we haven't come to what is the level of evidence needed to get a disclosure. But it certainly could include that you've made prior relay requests that haven't been responded to.

But so it may be a relevant factor but I don't think it can be determinative. And so you can't be denied. In my reading of this you can't be denied a disclosure solely on the grounds that you haven't first asked for a (real license) so I just suggested that language about we might want to say - whether or not the requester has first made a relay request should not be determined.

Don Blumenthal: Yes, fair enough. Thanks. Kathy? Or you can just say move on. Okay.

Kathy Kleinman: I think we can move on. Thanks.

Don Blumenthal: Fair enough. We'll talk about UDRP later. I don't think we've taken a straight line here. So any other - let me just ask if there're any other comments on Page 3 here.

Kathy Kleinman: Actually, Don, this is Kathy. Can I read the question about UDRP because it came up in some discussions that were - you know, a lot of people have been talking throughout the week. And does UDRP, in a lot of ways, solve some of the problems that we're trying to wrestle with?

Because UDRP creates a process, registrars and proxy privacy services comply with it. Doesn't that solve most of the, say, trademark infringement issue we might be looking at? This is a question I heard several times throughout the week so let me raise it.

Don Blumenthal: Okay, and let me layer something on top of that. The extent - if the answer is yes, the extent to which we can take any lessons from those processes for other issues that - for other reasons that requesters request - I'll use the general term, reveal. Any - no thoughts on Kathy's question? Steve?

Steve Metalitz: Yes, I will defer to those who are more UDRP and more active UDRP users on some of this but one - just in terms of scope of this, I have to say, if you look at the whole range of use issues that might derive through a disclosure request, the types of abuses that are - that could be resolved by a UDRP is a pretty small subset, only those where the domain name itself is - it's (usually) similar to it.

Trademark and the other criteria are met, and obviously those cases arise but there are a lot of other types of abuse for which a requester might seek a disclosure. So let's define the universe first before we decide whether, you know, to what extent UDRP addresses this. Thanks.

Now, I will say, when Mary - or the staff circulated questions at the end of last call, they asked the question (that) would be very useful in responding here, which is what types of complaints are we talking about that - what is the basis for the disclosure request that providers are receiving?

And so far, I haven't seen anything other than stray anecdotal responses to that but if we knew, for example, that 10% or 20% of the requests that came in were from the scenario that is amenable to UDRP, then we would at least have a sense of what part of the universe we're talking about here.

Don Blumenthal: True. And, Marika, I'll get to you in just a second. But since Steve raised the issue of reporting, for what it's worth, and I don't have numbers. I will say in terms of managing the PIR anti-abuse program, we're - we see a lot fewer complaints than I would see registrars do, certainly UDRP is way down the list of, if I were to do a count on the types of issues that I see responding to a point that was in an email, if you ask me to come up with numbers now, I could not do it.

That's just the way we track things. We're working on a ticketing system but at least one registry could not provide the answers that you would ask for that somebody might want under question four and five. It's not to say that it's true of any registrars but I'm just giving - putting out the one anecdotal response. We handle them (like) tracking it through analogs. Marika.

Marika Konings: Yes, this is Marika. Thanks, Don. So maybe first of all to note that, you know, from the sample we took from different terms and conditions for privacy and proxy services noted that it was a relatively small sample, you know, we did manage to actually (distinguish) a uniform way in which they deal with the UDRP cases.

And however, having said that, and it's just some information also sent to the mailing list in response to Kathy's question, and as well, (Chris)'s comment, I think we indicated that there is normally no reveal or provocation of the underlying customer data in Whois and as a result of the conversations that we had and the (locking over) the main and subject to UDRP proceedings at PDP, I actually understood the opposite, that there is, in certain cases, incentives for proxy and privacy servers to reveal the information in Whois as that means that they're not listed as the respondents in the Whois complaints.

So I think that was made very clear from the UDRP providers, that they basically take whatever is in Whois and that is the name that goes onto the complaint and will be used maybe in addition if later on, there is information provided by the proxy privacy service that there is an underlying customer that name may be added but the name that sticks is what is in the Whois information.

And as a result of that, and that's also the language I shared with the working group, the UDRP rules will be modified once the new policy comes into

effect, that basically specifies or clarifies as well to privacy proxy providers that an reveal needs to be done, you know, before the domain name is locked down or no further changes are made to Whois because whatever is in Whois that, as well as taken by the UDRP provider at that stage, and included in the complaint.

So that seems to suggest that in certain cases, a reveal does happen in response to UDRP cases but I'm sure some of the providers on the call may have a better sense of - that's often where sometimes our (decisions) that, you know, a provision has been created to make sure that that is an option and people are at least aware of that possibility existing.

Don Blumenthal: Thanks for the clarification. Graeme. I'm sorry, I (think your version) - thanks for the clarification. Graeme?

Graeme Bunton: Oh, sorry. There I go. I had myself on mute. Just to agree with some of what Marika was saying there, the system is sort of set up to incentivize registrars to publish private Whois details in the case of UDRP because we don't want to be named in the complaint. And then, further, if we are named, future UDRP processes may look at us as being named on multiple ones and treat us, then, as a bad actor.

So there's sort of this incentivization to make sure that we are not named in a complaint and do everything we can upfront to get ourselves off there and make sure that it's the registrant. Thanks.

Don Blumenthal: Okay, I was going to add something, but James.

James Bladel: Hi, James speaking for the transcript. Thanks Don and has been confirmed, that our practices are very much in line with what Graeme described or

Marika described. However, just a quick correction. We would not reveal in that situation.

We would publish, according to our own definitions on Page 1. And primarily for the reasons that Graeme has described or that Marika has described, is that if you are named as a complainant in the UDRP, that you are really not a party to and then that UDRP is decided against you, it's conceivable that multiple losses like that could result in the entity or privacy service being, you know, branded as a cyber-squatter which could, you know, have repercussions for other types of things like your RAA renewal and maybe applications for TLDs and future rounds. And so it's just really, really messy and I don't think any privacy service wants to go down that path. Thank you.

Don Blumenthal: Your last two comments have raised all sorts of questions. I'm going to toss them out at least so they're on the record. I don't know if we didn't get to them really. First, again, some of the issues about being included in the complaint.

I have to wonder how they're going to add those concepts. Will it transfer over to other complaint reasons, you know, fraud, whatever else? But something James just said made me wonder. Do we need to be considering the extent to which poor performance as a proxy privacy provider is going to reflect on RAA issues?

If a company has both, you know, if a domain is by proxy, as long as James raised it, if domains by proxy runs afoul of guidelines or it gets labeled or whatever, is that going to - will that put the registrar agreement in jeopardy at any level or should it? And I was hoping James would respond because I can imagine where there might be things I just don't know about that could answer my question.

James Bladel: So, Don, this is James speaking just for the transcript. And I think it's well outside of the scope of what we're trying to do here. It's just generally, I think that ICANN certainly has the discretion to not renew with a particular companies or individuals that they believe that they are bad actors (in this phase) as Graeme indicated.

But I think there's even a process or a policy that ICANN has where they can disqualify certain individuals or companies from being contracted parties, particularly if they were previously sanctioned or terminated.

So, you know, I don't know that there is anything specific. I don't think it should be built into this policy but I do know that there are mechanisms out there that we certainly don't want to test. Thank you.

Don Blumenthal: Delicately put. I appreciate it. And I'm thinking of an old nemesis from anti (stam) days, (Scott Ricter), who found out about qualifications to be a registrar not long ago. Steve.

Steve Metalitz: Yes, this is Steve Metalitz. I was just going to agree that this is so far beyond the scope of what we've been talking about that it's hardly visible on the horizon. And I just wondered if - just - I don't want to cut off the discussion but I would encourage us to get back to Page 3 of this document and see whether people are generally in agreement with what's been put forward there. Thanks.

Don Blumenthal: No, agreed. As I said, when I raised it, I wasn't sure that as long as the question was out there, I wanted to clear it on the record. As long as I get the question, I wanted to put it on the record. (Todd).

(Todd Williams):   Yes, (Todd) for the re- (Todd Williams) for the record. I don't necessarily
know the answer to that specific question either but I wanted to go back one
step to what we were talking about.

It seems that the general approach is upon filing of the UDRP. That would
then lead to publication. And, again, I kind of agree with Steve. I'm not sure
how much UDRPs really - how small of a subset that is of the overall of use
case, and I would be interested to see statistics on that but in the absence of
that, if we're looking at UDRPs specifically, to me, that seems to argue for a
step of disclosure -- not publication but disclosure -- before the filing of the
UDRP which then would, A, obviate the need for publication later which
comes with all of the negative, I guess, complications that James and
everybody else is laying out.

And, B, gets to this goal of encouraging direct communication between the
registrant-slash-beneficial user and the complainant and, frankly, provides
evidence that may be relevant in the UDRP, right, in terms of how many other
domains the particular person has registered which may be relative to that
(safe), et cetera.

I just wanted to put that on the table. That seems like a way to address a lot of
different issues that have been raised by a lot of different people but I'm
curious what everybody else thinks. Thank you.

Don Blumenthal: Thanks for that, (Todd). Marika.

Marika Konings: Yes, this is Marika. I just - I think probably (need) that is going way beyond
(discovery) of what this working group is currently looking at as I understand
at least, that, you know, there are some practical reasons for which, you know,

the UDRP provider takes where there - into Whois as that's publicly accessible information and other aspects.

But, you know, something you may want to consider is this is, indeed, an issue that you do believe needs to be addressed, there is, of course, the upcoming review of the UDRP. So if there's a specific question that you believe needs to be further addressed, then nothing would prevent the working group to actually flag the issue and maybe have that as a specific item for that group to address in the context of whatever comes out of, you know, this effort.

You know, including, for example, specific definitions around what is review, what's publication. And see whether, you know, any of those concepts could also be applied in the context of the UDRP as part of the review that is scheduled to start next year.

Don Blumenthal: Okay. You know, it's always dangerous to (listen) to one working group on the beginning or progress with other ones. So we'll see where we are by the time that group gets started. And that issue is particularly, well, at least in the registry community, is floating quite a bit with respect to Whois issues.

Well, I kind of jumped this down to UDRP and - in terms of trying to make sure Kathy's issue was addressed. Are there any other comments that anybody wants to make on page - on points on Page 3? Just covering all basis, has subsequent discussions raised any thoughts on something we might've already discussed today? Steve.

Steve Metalitz: Yes, this is Steve. I'm looking at the last bolded stuff here on the bottom of Page 3. And, again, I think this is fine for all the accredited providers to

provide a list of specific criteria that the provider requires in order to comply with requests.

In fact, I think that's very helpful. But just two points on it. One, again, I think there's a good argument that they already re- that those that are covered by the interim specifications of the 2013 RAA are probably already required to do this although this is more specific.

They're supposed to disclose the circumstances under which they will comply with the disclosure request. And, second, I don't think that, you know, I think if we just stop here, we're - and I know people are not suggesting that we stop here, but I just wanted to emphasize that if we stop here, then we're really not going anywhere beyond (metering) specification and certainly my expectation coming into this process was that we would try to work out some substantive standards, minimum standards, that would have to be met so that people would not have to simply, you know, look at lots of different - first of all, find the statement that's spelled out here in this last paragraph.

Under the iterative specification, even finding it could be a challenge. Maybe that will improve in the future, but just finding this without having some minimum standards of what the requirements are, I think would be a very, very disappointing outcome for this group.

So I'm fine with this as it is. But I think we need to go beyond it for some of the other areas that are, you know, that are bracketed farther up in this document and try to get some clear minimum standards in place. Thank you.

Don Blumenthal: Certainly. This document is a good set of statements but it is probably (for) discussion. We still have a mandate to come up with baseline requirements

and I would read that very broadly in terms of what areas we need to do the requirements in, the baselines in.

And the other thing is, I don't think it's reasonable to stop with what's in the RAA because we still have that group that I wish we could get some input from, the non-affiliate proxy privacy providers. Those are not covered under the RAA and I just - I could imagine some business realities that they deal with that we're missing but they're not here.

But still, we can't limit ourselves to what's in the RAA and we can't - we need to tease it out for a number of different reasons. More thoughts on this document? Okay, we have about five minutes here.

We did have some submissions last week, later in the week, and then again yesterday from proxy privacy providers. Now, I'd like to raise two things. First, just the generic any thoughts about those that people didn't express in an email?

But there're a couple of issues that have come up today that I think maybe this is part of the baseline where we really need to focus on. Okay, I'll stop - well, no, I do want to talk about, probably next week, these issues of standards of proof and these are legal terms I've seen thrown in that I just don't know if they apply.

But for the term standard of proof, I read the term perjury - guilty of perjury and I think we need to discuss those before long. What will people have to demonstrate and what'll have to be part of the demonstration? And (Karen)?

(Karen):   Hi, this is (Karen) for the transcript. I wanted to address the questions that I've been circulating on the list of privacy proxy providers. I seem to be missing

some of the information that was requested about complaint types and whether or not there is some data that these providers are willing to share about levels of success and the specificity of the questions that were already circulated. So just wanted to make the request here on the call for that information which would be very helpful for us. Thank you.

Don Blumenthal: Thanks. I (know that could) mention on the list, so let me just...

Woman: I think Steve is asking that these questions be posted up right now in the Adobe chat, so maybe that would be helpful to clarify my question. Thanks.

Don Blumenthal: Yes. Well, it's Question 4 and 5 of what we sent out last week and I know there've been some brief references to it on the list and then my registry perspective or at least my specific registry perspective.

So let me just ask of the registrars - I'm just reading the - what (Mary) posted. If, you know, if the registrars - how - let me ask you, how feasible is it to come up with (stats) like we've noted from your various perspectives and systems?

Yes, and secondly, do you have any issues with providing information? Legal, practical, whatever. Okay, well, hopefully we can get - well, either information or some explanations about why it's problematic. Both would be useful for the discussions. Mary, you said you put the questions up in the pod?

Mary Wong: Hi, Don. Yes, I did. If you look on the right-hand side, the grayed out pod, I've bolded and enlarged the fonts for those five questions.

Don Blumenthal: Oh, we have to scroll back up to see them because I'm not seeing them? Oh, yes, I gotcha. I'm sorry, they were already there. Yes, I guess what I'd like to

do for next week is focus on these questions, focus then maybe three (subsumes) as part of the questions I raised about what needs to be submitted and under what procedural standards, if any, and go from there.

I think we've really focused on a lot of things on this call. I appreciate it. Any closing questions, issues, thoughts? I don't want to start another thread at 10:59 although I've got a couple in mind. Steve?

Steve Metalitz: Yes, I just wanted to thank the staff for circulating the document that we looked at today. I think that was useful. It's obviously a contentious area but there are some areas that we seem to have some agreement on, so that's a good start. Thanks.

Don Blumenthal: Okay. Okay, we'll start on standards and if we could deal with four and five maybe (offline) (and four) next week, that'll be helpful. Graeme.

Graeme Bunton: Sorry, I'll just jump in briefly. I was explaining - or put a very high level sort of note on the email about how four and five might be difficult, that I'm sort of in a unique position that I do some of this policy stuff but I also run the business intelligence team here at (two cows) and I can provide a little bit more color about why those - answering those two questions are going to be difficult is that is welcomed.

Don Blumenthal: It - I think it definitely would be, so that's a good context and address some of the issues about the fact that we haven't seen numbers...

Graeme Bunton: Sure. It can get a bit technical but I'll see if I can explain why that's going to be a challenge for many people.

Don Blumenthal: We need a little (unintelligible) to keep people awake or asleep or whatever. I'll appreciate it anyway. Okay, 11:00 and I appreciate everybody's time and attention and involvement. We'll put things together from the call and talk to you all next week.

Man: Thank you.

Man: Thank you very much.

Woman: Thank you Don, Steve, everyone.

END