

**ICANN Transcription
Privacy and Proxy Services Accreditation Issues PDP WG
Tuesday 29 April 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 29 April 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-20140429-en.mp3>

On page:
<http://gnso.icann.org/calendar/#apr>

Attendees:

Luc Seufer - RrSG
Graeme Bunton – RrSG
Tim Ruiz – RrSG
Steve Metalitz - IPC
Kathy Kleiman – RySG
Darcy Southwell - RrSG
Libby Baney - BC
Justin Macy – BC
David Heasley – IPC
Michele Neylon – RrSG
Jennifer Standiford – RrSG
James Bladel – RrSG
Volker Greimann – RrSG
Tobias Sattler – RrSG
Phil Marano – IPC
Christian Dawson – ISPCP
Griffin Barnett – IPC
Valeriya Sherman – IPC
Don Moody – IPC
Alex Deacon – IPC
Kiran Malancharuvil – IPC
Laura Jedeed – BC
Sarah Wyld - RrSG

Apologies:

Gema Campillos – GAC
Osvaldo Novoa – ISPCP
Don Blumenthal – RySG

Roy Balleste - NCUC

ICANN staff:
Marika Konings
Mary Wong
Amy Bivins
Nathalie Peregrine

Tim Ruiz: Please go ahead, this afternoon's conference call is now being recorded.

Woman: Thank you very much, Tim. Good morning, good afternoon, good evening everybody and welcome to the PPSAI call on the 29th of April 2014. On the call today we have (unintelligible), Steve Metalitz, Michele Neylon, Laura Jeeded, Christian Dawson, Don Moody, Darcy Southwell, Tim Ruiz, Luc Seufer, Justin Macy, Libby Baney, Kathy Kleinman, Marika Konings, James Bladel, David Heasley, Graeme Bunton ,and (unintelligible) (Deacon). We have apologies from Gema Campillos .From staff we have Marika Konings, Mary Wong, Amy Bivins, and myself, Nathalie Peregrine.

I'd like to remind you all to state your names before speaking for transcription purposes. Thank you very much and over to you, Steve.

Steve Metalitz: Thank you very much. This is Steve Metalitz and I'm sitting in as chair today for Don Blumenthal who was unable to make the call today. He will be back with us next week, though. We have an agenda that was circulated; I think you'll see it on the upper right hand part of your screen if you're in the Adobe Chat room. Anyway, it's a fairly simple agenda. We've had the roll call. Does anybody have any updates that they need to make to their statements of interest?

Okay. Hearing none, we'll check off agenda item one; that's great. Okay. Agenda item two, finalization of preliminary conclusions for category B question three. You should see in the main part of your screen the revised template that the staff has prepared on this question, which is about rights

and responsibilities and in particular in the - including in the transfer, renewal, and expiration area. If you scroll down -- and I think you can control your screen there -- you'll see in the last couple of pages the edits that have been made to the earlier version of the template.

And I think they basically recommend some mandatory requirements for accreditation as far as relaying to customers any notices required under the RAA or an ICANN consensus policy. And clearly stating customers rights and responsibilities and the terms under which services may be terminated. And then there are a couple of best practices recommended regarding -- in this draft -- regarding facilitating transfer renewal or restoration and using commercially reasonable efforts to avoid the need to disclose underlying customer data in the process of renewing, transferring, or restoring a domain name.

So I think this was staff's effort to try to summarize and synthesize a lot of discussion that we've had on the last call or two and a little bit on the list as well. So let me just ask if people have comments or questions on this template for B3 or whether we're prepared to accept it as the preliminary conclusion.

I don't see any hands up. I see Kathy in the chat asking about the timeline for the sub-group on the technical sub-group. I guess the question - that is a point that we discussed last time whether there should be a separate sub-group to look in detail at how - what the policies ought to be with regard to transfer and renewal. But I - you know, I think that's a question we need to decide whether we want to have that sub-group working or whether we're reasonably comfortable with these conclusions as they've been spelled out in the document.

Kathy has her hand up. So Kathy, please go (unintelligible).

Kathy Kleinman: Hi, I'm on the phone now. Good morning, Steve, good morning everyone. I think - it was my understanding at the end of last meeting that we had agreed on the sub-group and that there seemed to be, you know, some wide support across all types of users for a sub-group that would look at the technical details of the transfer. Because questions have been raised and it was - we were descending into pretty technical ground involving transfer policy and issues that seem to go beyond kind of the scope that we wanted to deal with on the main calls.

So I thought there had been agreement to go into a sub-group to look at more technical details and then to bring back the results for consideration by the larger group.

Steve Metalitz: Okay. James is next on this topic. James, go ahead.

James Bladel: Thanks, Steve; James speaking for the record. And I think -- and I guess I'm not sure, Kathy, I don't remember - and you may be right, I just - my memory's not really that great on last week or even yesterday in some respects -- but, you know, I would just - thinking about this a little bit more, I think that there's no question that there is a desire to look at this issue of whether a transfers can occur between accredited privacy providers without exposing that data.

I think that, however, I would caution that any sub-group's work not be sufficient - you know, overly detailed for two reasons. I think it should limit itself to just sort of general principles or ideas because I think that there are a lot of ways to approach this and I don't think that the sub-group should be out inventing products or even, you know, patentable inventions because this is new to world as far as I know.

And secondly I think that that would also be very restrictive, you know, in the services in their ability to improve or enhance these functions in the future if they're - if, you know, their basic in the policy at a detailed level. So while I

don't remember where we left it last week, I do wish to express that we should be as generic as possible, stick to high level principles, and not get into the technical details of how these services actually work. That's just my opinion; thank you.

Steve Metalitz: Okay, thank you - thank you, James. So I think we've heard two somewhat contrasting versions of how - of what this sub-group might be chartered to do. I don't think we've reached a definite - my sense is -- or my recollection -- is that we hadn't reached a definite conclusion, but there had obviously been some discussion about having this sub-group. And I guess I'd be interested in Kathy's response and I guess she has her hand up to make the response. So Kathy, go ahead.

Kathy Kleinman: Great, thanks Steve. For some reason, I do remember the discussion, so - and in part because of the unusual group of people that came around to support it. And so - and I also remember it was a kind of do it at your own risk; that there was no -- based on some of the concerns that have been raised by James and others -- that there was no requirement that the larger working group act on whatever comes back from the sub-group. But it was more informational.

There seemed to be some strange hurdles of perhaps some weird wording in rules that had been written before proxy privacy services were around, perhaps. That there might be some things that the sub-group could explore - help everyone to understand to kind of make it easier for proxy privacy transfers to take place without disclosing the underlying data, which seemed to be a goal we all wanted, but how to get there was what the sub-group was going to look at. And again, it was very much a do it at your own risk; spend your time at your own risk kind of a thing. But there did seem to be some wide support for it.

Steve Metalitz: Okay, thank you Kathy.

Kathy Kleinman: Thanks, Steve.

Steve Metalitz: Marika, I think you're next.

Marika Konings: Yeah, so this is Marika. (Unintelligible) I also recall some people having, you know, concern or cautioning against a - you know, sending off a sub-team to look at this questions and probably for a couple of reasons. First of all that in order to do so I think, you know, a question would be specifically need to be defined what the sub-team would actually be looking at and also noting that, you know, there is an (unintelligible) transfer policy already in place and - which has, you know, a separate working group also looking at other questions in relation to the transfer policy. So I'm not even sure it would be within scope for this working group to actually come up with changes to that policy.

So again, I think it would need a bit more framing before, you know, sending off a group and indeed spending time and - on something that -- I think Kathy says, you know, the work group may not do anything with -- but I think it may be more useful to actually try to define what it would be doing and to come up with something that would be actionable. And again, it may also be a question that is put forward for possible future transfer working group to look at it it's really going in the direction of making changes to the transfer policy itself instead of providing more general guidance on, you know, getting everything possible to allow registrants to transfer domain registrations between registrars maintaining the proxy of privacy details.

So again, I think (unintelligible) last time as well, (unintelligible) no more IRTPs. But again, I think it requires a bit more framing to make sure that everyone's aware of what the sub-team would be looking at also. For the sub-team itself to know what their scope and (unintelligible) is and what the expectation of the working group are for them to come back with the recommendations.

Steve Metalitz: Okay. Thank you Marika. So - I mean, James expressed some concern that this sub-group should only be looking at general principles and not trying to invent a product. And I don't know, Kathy, if you're comfortable with that limitation on it. Obviously we have - in the draft now we have some general principles which are, you know, the best practices about facilitating and not hindering transfer renewal and restoration. And most specifically on the last one just at the end of the boxes, I guess, on the next to the last page. Privacy proxy services should use commercially reasonable efforts to avoid the need to disclose underlying customer data in the process of renewing, transferring, or restoring a domain name.

So I don't know if it's helpful in terms of defining what this sub-group would do, but is it - could characterize it as trying to provide some more detail or some more information on what commercially reasonable efforts that were referred to in that bullet might include. I don't know if that's useful or a diversion from what the volunteers for this sub-group want, but I thought I would put on the table that that's one way we might approach it.

I see Kathy, then Tim, and then James. So Kathy, please go ahead.

Kathy Kleinman: Okay. Okay, I'm trying - I wish we had the chat of the last session, because there did seem to be a number of people chiming in. Paul McGrady did, as well as others. No one's trying to reopen the IRTP. There was just a - I thought the purpose of the sub-group was really to look at whatever hurdles -- purposeful or inadvertent -- were there in the proxy privacy transfer that we could clear together. So I agree with what's been written into the summary materials and I think it's really very important progress.

But I thought we were -- in light of some of the very technical questions that (Mary) had kept posing in front of us and that some of these questions -- I remember particularly two and three didn't seem to have - I don't have them in front of me -- the questions that (Mary) kept posing that had to do with the IRTP policy and interpretation. And there seemed to be some ambiguities or

some vagaries and there was a thought that the sub-group could help the working group move forward with some real questions to - with some real answers to the types of questions that were being posed.

But it was much too technical, I think, for most of us to do. But it seemed to have a lot of relevance to not disclosing customer's -- proxy privacy customer's -- in the transfer. And there seemed to be some fairly low hanging fruit there that, you know, that it wasn't that difficult, but a few people had to kind of dive into it a little bit. So this could be a sub-group for a short period of time with the very limited mandate. That's my sense.

And I'm going to go back and try to dig out the questions that (Mary) posed. And again, it was the third and fourth ones that seemed to kind of lead us to the sub-group area. Thanks Steve.

Steve Metalitz: Thank you Kathy. Tim?

Tim Ruiz: Yeah, I think - my concern about the working group is that -- one -- that it spends a lot of time doing what we thought we'd ultimately agreed - well, first of all, I thought what we ultimately agreed was that not necessarily making the non-revealing - you know, that you had to make it possible to not reveal data in a transfer. That we might recommend that as a potential best practice, that it might be, you know, something that you should consider implementing but not necessarily requiring all services to implement it.

And then, you know, customers can make a choice based on the various services that different proxy and privacy providers offer. So I think that's where we were at. So I guess my concern about the working group was that it spent a lot of time on something that we're not going to actually make - you know, as a requirement or even recommend that it be a requirement for all providers to offer.

So that'd be my first concern. The second one would be that if we do form a working group for this purpose for any reason that it very clearly be specified that they're not to look at any modifications to the transfer policy in any way. That what they're looking at is, you know, what can be done without modifying the transfer policy. And that would be their primary focus

It seems like since we've got in - you know, the conclusions we have in here regarding this subject seem to kind of cover it. And to go into any more detail at this point, you know -- unless later we feel that there's a need to be more specific or to direct, you know, providers to have to, you know, provide this service as a requirement, I don't see the point in a working group right now. So I don't recall at all we discussed - I might have even supported the working group last week -- I don't know -- but just looking at the conclusion we have right now and the discussion we have so far today, I guess I don't really see the point of it.

Steve Metalitz: Okay, thanks Tim. (Mary) has posted some excerpts from last week's chat in the - in this week's chat, so that's available as a resource. James, I think you were next in the queue. Please identify yourself.

James Bladel: Thanks Steve; James speaking. And I just wanted to report both what - a lot of what Tim and Kathy have been saying. I think, you know, one way forward would be to convene the group but, you know -- as Kathy was saying -- rather than solving the problem, maybe identifying those hurdles and suggest some ways that service providers can coordinate without rewriting the policy or creating new obligations. I think that might be a sensible way forward, you know, out of this issue.

But I think, you know -- going back to what Tim was saying -- I think that it would be key perhaps to have a group that would discuss a way to coordinate between privacy and proxy service providers in such a way that does not touch the registrar obligations under the IRTP and that the IRTP is

considered essentially, you know, out of bounds or out of scope for that working group.

So that's just one thought on how we can maybe navigate a path forward.

I think it's - it is - my recollection from last week is everyone agreed that this was a desirable trait. I think that how to achieve it and how much of it should be required versus how much of it should be a best practice or a value added service offering I think was where the group started to fragment a little bit. So that's - I'll drop for now, but I think that's one approach we could take.

Steve Metalitz: Okay. Looking in the chat, Kathy seems to be agreeing with what James is saying. I think everyone's in agreement that this group would not have any authority to propose changes to the transfer policies - the RTP. And I think there's agreement on identifying hurdles, suggesting how service providers can coordinate. Let me just ask if anybody else has any oral comments they want to make at this point about a possible sub-group? And if not, I guess - my suggestion would be maybe Kathy and James could go offline in the next few days and come up with a very brief, you know, mission statement or description of what this sub-group would be about and suggest a timetable for it to report back.

I think there is general agreement -- conceptually -- among - at least between Kathy and James on what this would be doing, but I think it - clearly we should have something down in writing -- which I don't think needs to be more than a sentence or two, really -- as to what the sub-group would do and what would be a reasonable timeframe for it to come back - report back to this group, which could then decide, you know, what to do with that output. I mean, it's -- as Kathy indicated -- it's - there's no guarantee that this group would take that up, but I think we - if some smart people could spend a little time thinking about this and learning about this, I think we could probably benefit from that.

Is anybody - I don't see a disagreement with that. I didn't - I don't know if it said charter, but I won't say it. So I think mission statement or parameters is better. So if there's no objection, let - then we'll ask Kathy and James to formulate something and hopefully get it out on the list so we can all look at it prior to next week's call and hopefully -- at that point -- just say, "Fine, that sounds great. Let's line up - make sure all our volunteers are still committed and have that group get started - sub-group get started."

And the other thing - let me just again refer back to what's on your screen -- the B3 preliminary conclusions -- are people comfortable with these? Again, subject to whatever the group might come back with. But is there any objection from those on the call to this language that the staff has prepared on B3?

Okay, not hearing any objection, then I think what we can do is move on to category C and the staff will of course put this out again on the list and say this was - that we reached this tentative preliminary conclusion on B3 and make sure everybody has that - knows what that is. Our - Kathy and James will come back to us with a mission statement for a sub-group on -- what do you -- seamless transfer or whatever you want to call - whatever label you want to put on the ability to transfer without disclosing the underlying customer data.

And if there's no further comments on B3 at this moment, why don't we move on to C. And you will see on your screen on the right hand side -- I think as Kathy pointed out -- that there's a threshold question for category C which I think could well be helpful in - or could certainly facilitate our getting to preliminary conclusions on the sub-questions in C.

So let me ask that we turn to that first and -- just to read it -- currently proxy privacy services are available to companies, non-commercial organizations, and individuals. Should there be any change to this aspect of the current system in the new accreditation standards? I think that's kind of -- as Kathy

put it -- the threshold question to C1 and C2, certainly, which are asking should it be available to commercial registrants? Should it be only available to individuals? Kind of asking two versions of the same question.

So let me open the floor for comments on - or proposed responses to this threshold question about whether there should be anything in the accreditation standards that changes the status quo in which all types of registrants are using proxy slash privacy services. See, Kathy has a comment. Anybody else? Kathy, why don't you go ahead.

Kathy Kleinman: Sorry, I feel like I'm taking way too much floor space - mike space this morning. But I remember we talked at length about this threshold question as one that might save us time before we go into more specific questions of what classes and what categories. Should there be any change at all? And so I'm sure it won't surprise you to hear that my view is that we shouldn't have any change. That right now in the GTLDs proxy privacy services are available if the proxy privacy service provider wants to provide them this way to companies, non-commercial organizations, and individuals.

And as we've discussed -- as I believe is now in the process of being codified into the last summary that we just approved or in the process of approving -- proxy privacy service in and of itself is not a sign of anything. It's a sign that people want privacy; that organizations, human rights groups want privacy. It's not a sign of anything negative at all. And so I think all of these groups - it was a finding of the Who Is review time actually -- after talking with all the stakeholder groups -- that every user group that we talked with had very legitimate needs and uses of proxy privacy services.

So companies use it so that they can avoid announcing a new product or service beforehand. You register the domain name and then go back to your PR team and develop, you know, the plan to unveil whatever the product or service is. And that can take, you know, several months if not longer. Non-commercial organizations -- obviously you've heard a lot about personal

speech, political speech -- and the concern that that not be tracked directly to your home address if you're a small group. And of course individuals and their freedom of expression rights and a lot of things they're trying to communicate as well as small businesses -- entrepreneurs -- that are working from home.

So we found that all sorts of groups use proxy privacy services. There was a threshold question - as a threshold issue supporting that going forward seems to make a lot of sense. So thank you.

Steve Metalitz: Thank you Kathy. James?

James Bladel: Hi, thanks; James speaking. And no, Kathy, you're not dominating the conversation, because I'm at least 40% of it at this point. But not surprisingly I agree with Kathy. I think that we were both on the Who Is review team, we remember that this question was examined fairly thoroughly within that group, and was determined that there were a number of legitimate needs or use cases for, you know, commercial or non-commercial entities to be - to use these services.

I think that where we might have gotten confused -- and I'm going to just throw this out here -- is that I think that in some jurisdictions only natural persons have a right to privacy and I think somehow that has been transformed into only natural persons are eligible for privacy. And I think that that's maybe where we went off track, because certainly the need and the desire and the legitimate purposes for privacy of businesses and, you know, human rights groups -- et cetera -- are within bounds and I think we should leave it as the status quo intact. And I think that there should be a fairly high bar for any proposal that would change the status quo or limit the ability for folks who currently use these services to no longer have access to them.

Steve Metalitz: Okay, thank you, James. (Karen) is next.

(Karen): Hi, and I apologize; I'm really very ill today, so I don't know if anyone will be able to understand me through my fog. But not surprisingly, I don't think we've been secret about this desire at Merck Monitor to address this question about the legitimacy of privacy proxy use for commercial registrants.

I think that it is correct, obviously, that the Who Is review team did identify several legitimate uses for businesses and commercial users to avail themselves of privacy proxy, but I think that -- especially with Kathy's example -- companies can -- and commercial entities -- can keep an initial registration secret, but as soon as they start - as soon as they launch a web site with commercial purposes, then, you know, generally we would encourage them to flip over to a live and accurate Who Is information.

But the concept that we kind of hang our hat on in this is that most of the laws that discuss commercial transactions in the brick and mortar world - allow us to always know who we're doing business with.

So we think that the same right to understand - the same kind of consumer protection - that that represents - should be present in the digital world, as well, as the brick and mortar world. I guess. We'll just use that again.

So the - we also believe that, you know, this - at least, merits discussion. I don't think that it's a simple question. I don't think it's an easy question.

But as long as we're talking thresholds here, I think it's very, very important for us to discuss this as a group in more depth.

And also, I do recall that the privacy proxy abuse study that came out - I guess, it was last year - was, actually, did demonstrate that there are a number of people that are using these services to, you know, to abuse consumers - for a number of reasons - for counterfeit products, you know, (unintelligible) property infringement, for, you know, counterfeit

pharmaceuticals and safety - that we see all there - all the time - and mark monitor.

So I think it's kind of unfair to just assume that everybody who's using them for commercial purposes - these services for commercial purposes - is, you know, is on the up-and-up.

So that's our position and kind of a very - not eloquent way. But I do believe that this conversation should not be dismissed. And this question should not be swept under the rug (unintelligible).

Steve Metalitz: Okay, thank you Karen. I see Tim and Volker in the queues. Is there anybody else that wants to speak, at this point? Tim, go ahead. Okay, I see Kathy. We'll put you at the end of the queue. Tim go ahead.

Tim Ruiz: Yes, Tim Ruiz. Yes I think it's also important that we - that we don't assume that everybody who uses proxy and privacy services are criminals.

The vast majority, I would stipulate, are probably not. And that was one of the things I think I asked a while back. It don't think we ever saw - is just a better understanding of the statistics.

When - because a lot of people talk a better around - about, oh yes, we - there's a significant number that use privacy proxy services for, you know, un-torrid activities - or whatever.

But we've never seen any very good statics around all that. So it might be interesting to see if we're really going to get into this discussion.

But I think that, you know, comparing to this to the brick and mortar world, I think that it's perfectly legitimate to say, that, you know, a commercial business, you know, you should know who you're doing business with.

But I don't think that Whois, is the way that that's going to get done. Your average consumer doesn't look at Whois. They look at the web site. And they try to find out on the web site.

I mean, I do that myself. And I'm, you know, been on this ICANN policy stuff for decades. But - well, over a decade. But when I - and then a web site - doing business with somebody - I look at, you know, contact me about.

You know, there's a lot of different things I look at to try and figure out who these people are and whether I want to do business with them.

So I think that, you know, your average consumer isn't going to look at Whois. And even those of us - probably don't use Whois that much - to try to figure out who we're doing business with online.

So if there are to be, you know, legislation or rules or policies or laws about making sure that consumers know who they're doing business with, I think they ought to apply at a different level - then at the Whois level.

And I don't think that the level they should apply at is under our preview or even under ICANN's preview. And so as far as Whois is concerned, I think there's, you know, perfectly legitimate reasons why all party - any party may want to use privacy for a period of time or for an extended period of time on it.

And I will submit that if there are going to be differences and how we treat different categories - if you want to call it that - of users. That we might want to look at that more under the reveal area and not under, who gets to use this service.

So that's - that'd be my take on it.

Steve Metalitz: Okay, thank you. I've put myself in the queue after Kathy. But we have Volker. I think was next. Volker, go ahead.

Volker Greimann: Oh yes, thank you Steve - thank you Steve. Tim is exactly right. The web site is where the people are doing business - not the domain name itself because the domain name is just how they reach the web site.

And if people want to know who they're doing business with - into - going to the brick and mortar world's a comparison - that information should be on the web site.

And the European countries have gone ahead and legislated that. You have to have an imprint on each web site that's doing some form of business on line.

And if they don't have that, you can sue them or you can force them to put that on there. And you can report them to the local authorities.

And frankly, I wouldn't do business with someone who doesn't put their address and the phone number on their web site - as a business.

So the web site is where this information should be. Overloading the Whois with things that you want to achieve with the Whois - that it wasn't designed for it - I think, it leads down the wrong path.

Steve Metalitz: Thank you Volker - Kathy. Kathy did you go on mute or did you want to speak. She's typing. So perhaps we've lost the audio there. Okay, we'll move forward. And we'll come back to Kathy.

I put myself in the queue here because I do agree with some of what Tim and Volker have been saying but not with all of it.

It's true that some countries have requirements to disclose commercial, you know, the contact information on commercial actors on the web site. Some countries don't have that.

Though some countries enforce those rules more stringently than others. And I think Whois does have a role to play - in letting people know who they are dealing with - online.

And I don't think it's overloading Whois to - or any distortion of the original purpose of Whois - to say that that's part of what Whois is about.

And that's one means that people can - should be able to use - to find out who they're dealing with online. Including - but not limited to - commercial actors.

That being said, I think there're a lot of practical problems with treating - you know, with saying that only commercial users can't use proxy services. And I don't really know a way to surmount those practical problems.

And I would also agree with Tim that one aspect of this is very important - is what are their reveal rules.

What are the circumstances under which a commercial operator - let's say, who does chose to use a privacy or proxy service - can be unmasked or at least, disclosed to a particular user - based on the way that that entity - or that person - is using the domain name.

So I think that's probably a more - there may be a more practical way to approach this because I do see some significant, practical problems with a requirement to exclude commercial users from the services.

I also, just want to emphasize that we're - again, we're talking about minimum standards here - accreditation standards. And I don't think there's any problem with a proxy service deciding that it will not make its services available to commercial users.

And using whatever tests it wishes to propose - in order to that. I think that's perfectly legitimate. And I don't think we're talking about requiring all services to be equally open to commercial or noncommercial users.

We're talking about whether this would be a minimum requirement. So I just wanted to make those points.

Let me turn back to the queue. We have James and then Kirin, Kathy and (Justin). James go ahead.

James Bladel: Thanks Steve - James for the record. Do you want to see if Kathy's ready now because I can hold for her.

Steve Metalitz: Kathy...

James Bladel: I think she had audio problems.

Steve Metalitz: Still on hold - she says. Okay so, James go...

James Bladel: Okay, well I - Steve, I can get behind a lot of what you were saying - just a moment ago. I wanted to take a more practical approach to this.

So suppose that - let's play this out for a minute, here. Suppose that we did determine - as a group - that commercial users and commercial activities would be dis-allowed under this - under accredited privacy proxy services.

Well I think the first question would be what happens to the ones who have it now? And I think that, the new study pointed out that several major banks and stock traders, you know, and brokerage firms and financial services, all use these services.

So I think we have to determine how we would gently - or in an organized way - remove privacy service from those existing users. I think the second bit

would be, what does a - what is - when does one cross the line and become a commercial user.

Is it an individual who is selling something - as an individual or a sole trader? Or is only for non-natural, you know, legal entities - even if they're not conducting any transactions.

Do they - are they kicked out. And I think, you know, that opens another interesting idea - which is that, you know, what's to prevent someone just lying.

I mean, I can be taken in by a con-artist or a fake pharmacy - or whatever - by an individual - just as easily as a business.

So I'm not really clear. In a practical term, you know, what we're talking about - particularly if we're saying that if it's just a transaction base, you know, differentiator.

That, you know, as soon as you exchange money - over a web site - or, I guess, since we're talking domain names, it wouldn't have to be a web site.

It could be email or any other services or an app, for example - that uses the domain name - would constitute a commercial transaction. And would that also include things like donations to political or religious groups.

Would that consider - be considered a commercial transaction? So I guess, just building on what you were thinking Don. Is if we played this out, the practical implications of this are astounding.

And I think it creates, for the first time, you know, and ICANN perspective that, you know, not all restraints are equal. That there are classes of restraints - which is something new.

I think we see it in country codes. But it would be new in GTLEs. So I think that this is something that we would have to consider as part of any examination of this question - or any recommendations that would come out of it.

And I think, ultimately, the harms that we would be trying to mitigate - or the benefits we would be trying to achieve - would be lost in all of the misses and the false positives of pursuing this path. Thanks.

Steve Metalitz: Okay thanks, James. I have Kirin, Kathy and (Justin). And is there anybody else that wanted to be in the queue, at this point. If not, Kirin go ahead.

Kirin Malancharuvil: Hi, I just wanted add, quickly. There was some discussion earlier about the value of who has information and whether or not we can just rely on them - in web site, you know, content - contact information (unintelligible).

I would say, you know, as a product security firm, we rely almost, entirely - I would gather to say - on Whois.

And an inaccurate Whois is a huge burden - particularly, in our more urgent cases - that deal with, you know, safety products - as well as, our antifraud services.

Which would deal with (What's it) perpetuating, you know, malware phishing those kinds of things.

So Whois information is extremely, extremely important for those of us who are actually, actively pursuing the, kind of, action against these registrants.

I would also say, that the issues that James just brought up are very consequential and extremely complicated. And that's why I think that it a very, very bad idea for us to just to say, oh no this is too complicated. Let's move on.

So, I mean, frankly, I think that these are the issues. These are the issues for privacy and proxy services - especially, from a consumer protection perspective - which is where we're coming from.

So I thank James for, kind of, listing all these issues. But I would disagree that, you know, as a result of understanding all of the complications that exist - in relation to this question - we draw a (unintelligible) conclusion that it's just too difficult for us to deal with - or, you know, whatever.

We shouldn't be drawing any conclusions, at this stage. We should - in my opinion, we should just be asking the questions, thank you.

Steve Metalitz: Okay, thank you, Kirin. I have Kathy and then (Justin). Anybody else that wants to be in the queue, at this point, if not, we will - I see Tim is gotten back in.

We'll cut it off after Tim because we're getting toward the top of the hour here. So Kathy, please go ahead.

Kathy Kleinman: Happy to be back on line - sorry for dropping, everyone. Okay, just different things that I've heard in the discussion. I agree with a lot of what's being said, by Tim - by James.

But a lot of practical implications here - but a few things, kind of, as premises - and also to beginning to illustrate what kind of time we might get involved in as we go into some theory - very, very difficult and ambiguous and inconsistent areas of law.

First, trading companies - the companies that has to do the disclosures - as I understand it - and as Volker was - I think it was Volker who was outlining it - are commercial companies trading online.

The vast majority - at least when the Whois review team look at it - the vast majority of transactions in the commercial world are business-to-business.

And they are not disclosure requirements on that. In fact, when I deal as an expert attorney and an Internet attorney - with certain law firms - they don't know where I'm operating from until they send the check.

It's not a requirement - even if I have a web site that's sharing information. I'm not providing information to end users to end customers. I'm not selling a service to the public. I'm selling a service to a business.

In a business-to-business transactions disclosure is by contract. And so those companies wouldn't have an obligation. But then, we begin to descend into the whole rat hole.

And sorry to use that word but the amount of time we could spend on this is forever. Which is what - is a commercial entity. And what do we really mean by commercial entity?

In the United States, charitable organizations that have tax exempt status of 501(c) (3). So this is a very valuable status - by definition, have to be incorporated - so their commercial entities - for the purpose of being non-profits - and getting in that special status with the Internal Revenue Service of the United States.

So many, many, many impact on us all - at least in the United States - true to synagogues, Mosques, human rights groups, planned parenthood clinics are incorporated because that's how you create entities.

It doesn't mean that they're trading to the public. It doesn't mean that they're necessarily in the scope of what we would ever want to - you know, they're not selling shoes.

But they have - for the purpose of getting insurance - for the purpose of protecting the board of directors - they are incorporated. And we use that for both profit and non-profit entities.

So to begin to descend into differentiating all of this - again, I deeply fear we could be here forever. And that, very much, includes entities that we don't want to grab within the scope of - you know, that are otherwise entitled - that we've talked about as being entitled to proxy privacy services.

So I like the idea of beginning to explore some of this under-reveal. But not creating categories and classes now. And not spending the amount of time it would take to begin to - even peel the onion of categories and classes.

Thank you very much - sorry for the long discussion.

Steve Metalitz: Thanks, Kathy - (Justin).

(Justin Lacey): Hi, I'm (Justin Lacey) from (Religious Script). I think, I agree with Karen - in the idea that this is definitely worth the time for us to discuss this. I think this probably one of the most important discussions that this group can have.

I think it's dangerous if we punt this issue to the reveal area of our discussion. Because, quite frankly, most people who are going to use this, can't request a reveal on all of these individuals in a (unintelligible) security area - and that kind of stuff.

And further, we kind of point out some red herring - and issues along the way - like individual actors not using Whois - or parents not knowing what Whois is.

But the reality is, is law enforcement agencies - and other agencies- protect people using this information. So even if they don't know who it is - what

Whois is, it doesn't mean they're not getting a benefit from that Whois information being public.

I think that James point out a lot of - just categorically hard questions. I mean, I think that those questions - I think that we should ask what we discussed.

Also, there's a distinction being made about corporate entities or - especially, like Kathy just now -regarding incorporation from churches - and whatnot.

There's definitely ways we can parse this stuff initially. One of them, of course, is commercial entities. The other is commercial actors - people who are acting in commerce - rather than just people who are registered of commercial entity.

And I think that there a ways we can tackle that, as well. So I just wanted to throw my support in for Karen and for Jeff. This is definitely an issue we should look further into.

Steve Metalitz: Okay, thank you (Justin) - Tim - briefly, your contribution.

Tim Ruiz: Yes I guess, you know, I see this getting more complicated in even just as we talk. I mean Karen's saying, well registered commercial entity. And then (Justin) just said, oh well there's acting commercial, you know.

I'm not even sure what that's supposed to mean. At any rate, I think, you know, if we underestimate the amount of time we could end up going down this rat hole - as Kathy put it - I mean, we are seriously, you know, negligent of our duties here.

And, I think, if we need to go down that rat hole, then that's great. But before we do it - because it'll be all the rest of the time we're going to spend, will be on that, easily.

But before we go there - to me, the question we should ask first is what do we want to get out of it? I mean, and that's what's missing out of this, you know, category C question one, question - is what - why?

What do we want to get out of it? What's the purpose? What's the problem? What are we trying to solve? Let's try to figure that out first. Because we may find that we don't have to go down that rat hole to solve it.

That we can actually solve it another way - through the reveal discussion - or whatever - or we may decide, well let's see if we can solve this through the reveal discussion.

And then if we can't, we can go down that rat hole. But just to assume now - let's go into this great big complicated discussion about what's a commercial entity and what isn't.

And how do we - how would it be enforced - and all the complications that we would throw on something like that. I think is on the stake. But first, let's look at, what is it we want to get out of it and go from there.

Steve Metalitz: Okay, thank you Tim. This is Steve. I'm going to wrap up this discussion. I think we've gotten this off to a good start. My sense of this is kind of what you would expect by looking at the response on C1.

I think there is - probably, most of the participants think the answer to the threshold questions should be, no. There shouldn't be a change. But I think we also have a vocal group that feels that there should be.

I think we have to be careful in this discussion. Well, even just looking in the chat, I think things have gotten a bit vituperative over there.

But even in the oral discussion, let's try to be careful about - both our rhetoric of rat holes and other paths that we're going down and also just on our

concepts because it's very easy to confuse the corporate form of organization of an entity with commercial.

And they're absolutely not the same thing. And it is, I think, extremely unhelpful to conflate them. Which, unfortunately, I think some of our - the comments - for today have done.

I think we're going to have to return to this next week. And I think my suggestion - but I hope we can have some more discussion during the week - is, we don't have consensus on the threshold question.

Maybe we need to turn to C1 - whether the accredited provider should distinguish between commercial and personal purposes. And I think that means that we - those who think that should, should be proposing some practical - or entering some of the practical questions that have come up about how that would be done.

But I don't want to - I don't think we have consensus on that question, yet. But perhaps as we get into some of the more practical issues, it will help to illuminate it. That's my two cents worth on this.

So let me ask that then - that we put this aside and go onto our final topic - which is next steps. Well, we've talked about next steps and planning for London.

Mary could you fill us in on what it is we need to do - or decide about London, at this point.

Mary Wong: Yes, off course Steve. Hi everybody. This is Mary. So I think - as many of us know - there may be some changes to the usual meeting scheduled for London.

The one that will most specifically, affect this working group, is the proposed changed to the Thursday's schedule. We've had the last couple of face-to-face meetings - including the remote participation for this group - on a Thursday morning.

So this will mean that, should this group wish to have a face-to-face meeting will need to find some other slot for it. After discussing it with the chairs, the feeling was that it would be beneficial to continue to have those meetings - at the ICANN meeting.

So what we're purposing is to put a request for the Wednesday morning. Of course, on the understanding that we don't yet know what other big ticket items or changes might be.

But just generally, that it is a lot better to put in a request and have it on the schedule and maybe try to move it around or even cancel it - then to try and get in a last minute requests.

Steve I see Volker's got his hand raised. And think it's because he's - it maybe because he's planning the GNSO schedule. So I'll defer to Volker.

Steve Metalitz: Volker, is it on the GNSO schedule - go ahead.

Volker Greimann: Yes, exactly, thank you Mary and thank you Steve. Just one quick question - we're trying to streamline the council session - the bits. And I would just like to ask the group if we think that we need some time to present.

And if not, to make that known to - well, me - by the next meeting that we have next week. So we can either include or exclude this group from the presentation to the counsel.

If we don't have any reports and nothing to ask the counsel, then it might be good to just skip that meeting and have no reportage. There's nothing substantive to report.

Steve Metalitz: So Volker, you're referring to just a status - do we need a status report to the counsel - on the weekend preceding.

Volker Greimann: Exactly.

Steve Metalitz: Yes, well I'm not quite sure where we'll be at that point. But I don't think - I agree with you. We don't need to report just for the sake of reporting - unless we have some issue we need the counsel to address.

But let's think about that during week. And hopefully, we'll give you an answer - get you an answer on that by next week.

Okay, are there any other comments on the London meeting? Okay, I see there have been some discussions in the chat about remaining on the threshold question.

I mean, this may be a distinction - without a difference. But I think it's useful to move ahead and sort of get to some of these practical issues and see how serious they are.

As I mentioned in my first intervention here, I think there are some very serious practical issues - if you were going to distinguish between commercial or non-commercial, individual or corporate entities and their eligibility for these service.

So I think, perhaps, if we get our toe wet on that, we would get a better sense of how serious those problems are. Are they something that we can work through - or are they something that really is a, kind of, a show stopper.

So that's just my feeling on this. Are there - Volker, that's an old hand - I trust?

Volker Greimann: Yes, sure - sorry.

Steve Metalitz: Okay, well thanks everyone. We've reached the top of the hour. I appreciate everybody's contribution today. Don will be back in the chair next week. And we will all talk, again then, thanks.

Man: Thank you, Steve.

Woman: Thank you, Steve. Thank you everybody.

Woman: Thanks.

END