

**Inter-Registrar Transfer Policy Part B PDP
Transcription
Tuesday 17 May 2011 at 14:00 UTC**

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<http://audio.icann.org/gnso/gnso-irtp-b-20110517-en.mp3>

On page:

<http://gnso.icann.org/calendar/#may>

(transcripts and recordings are found on the calendar page)

Attendees:

James Bladel – Registrar SG
Paul Diaz – Registrar SG
Jeremiha Johnston (observer) - replacement for Simonetta Batteiger
Bob Mountain – Registrar SG
Michele Neylon – RrSG Chair
Mike O'Connor – CBUC

ICANN Staff:

Marika Könings
Kristina Nordström

Apologies:

Simonetta Batteiger – Registrar SG
Chris Chaplow – CBUS
Kevin Erdman – IPC
Anil George – IPC
Rob Golding - RrSG
Oliver Hope – Registrar SG
Matt Serlin - Registrar SG
Barbara Steele – Registries SG

Kristina Nordström: Hello everybody and welcome to today's IRTP call on the 17th of May, 2011. On the call we have Michele Neylon, Mike O'Connor, James Bladel, Paul Diaz, Bob Mountain and Jeremiah Johnson has joined as the replacement of Simonetta Batteiger.

From staff we have Marika Konings, Kristina Nordstrom and apologies from Rob Golding, Kevin Erdman, Simonetta Batteiger, Matt Serlin, Anil George and Oliver Hope. And may I also please remind you to state your names before speaking for transcript purposes. Thank you and over to the chair.

Michele Neylon: Thank you. Could you also note apologies from Chris Chaplow as well please?

Kristina Nordström: Yes, I will do that.

Michele Neylon: Thank you. I got - you're going to love this - 2011 - I got a direct message from his wife on Twitter about his attendance or lack of it for today's meeting.

Anyway as per usual does anybody have an update to their statement of interest or declaration of interest? Going once, going twice, Mikey, are you still a capitalist?

Mikey O'Connor: Aye, Aye, sir.

Michele Neylon: Thank you. Okay then, right then, today's meeting - just before we get started welcome to Jeremiah. Hopefully I'm pronouncing that correctly.

((Crosstalk))

Michele Neylon: Who is here as - I want to say replacement for Simonetta but that's terribly offensive. He's here as a representative of Sedo as the other representative of Sedo couldn't make it onto the call. How's that?

Jeremiah Johnston: Sounds good.

Michele Neylon: Convolutated I know but I'm Irish so I do - ah, proxy. See, I don't know about then, then we get into privacy and proxy and my head starts to explode. Anyway so welcome to the call. We got your - I circulated your statement of interest to the other working group members earlier today. And hopefully Simonetta has brought you up to speed on what we are discussing?

Jeremiah Johnston: Yes.

Michele Neylon: Cool, perfect. Right then now there's a couple of things that we want to go through, the roll call we've already done that, the emergency action channel is something that we have been discussing for the last couple of weeks. Then we have the 60-day lock proposal and then there's a little bit more on the reviewing of public comments.

For those of you on the Adobe Connect you will also see the - sort of the working group guidelines with respect to consensus - are there so you can see what we're talking about when we're referring to different types of consensus. Does anybody have any issues, questions, queries or anything else at this time or shall we proceed?

Okay moving on. Several of us were at a regional meeting in Munich last week for a couple of days where there were various members of

ICANN staff including several people from ICANN compliance and several people from the registrar liaison group.

The deliberations of this working group did come up in under a couple of topics. And compliance does have a new director who we had the pleasure of meeting. Now I can't remember how to pronounce her name. It's Maggie or Maguie? How do you - anybody else who was there can they remember what's the correct pronunciation? Maggie?

Paul Diaz: Maggie.

Michele Neylon: Okay we'll go with Maggie.

Marika Konings: Maggie.

Michele Neylon: Okay because I know it's spelled oddly or at least oddly for me. So the compliance team kind of reflecting general kind of things that we discussed previously. So maybe we might be able to get some more input from them in future PDPs on IRTP.

James I believe was discussing the emergency action channel over breakfast with Tim Cole. And we've reached out to Tim to see if we can get a few bullet points from him. But now I'm going to be really cruel and put James on the spot and ask him can he recall anything that did come up in that conversation?

James Bladel: Yes, Michele, James speaking. And again this is not to say that there's the specific ideas or information. I just want to be sure that we accurately captured Tim's information when we reviewed it as a working group. I think it was about four or five weeks ago.

If I recall, if memory serves, when we were discussing how RADAR - the RADAR system might support the emergency action channel idea I think the general takeaway from the working group was that it could not do this in its current state and would require significant developments.

I don't think that was the entirety of what Tim was trying to convey; I think he was also trying to give us some alternative suggestions that might help us in the immediate term support the emergency action channel idea using existing systems. And I think it was that second part that perhaps might have been lost.

So I don't want to - I don't want to put words in his mouth, I don't want to, you know, promise that he has some information that isn't there I just - I'm concerned that we maybe didn't accurately, you know, review of all of what he was trying to communicate to this group.

So, you know, my recommendation would be if we could reach out to him and just have him restate what he was, you know, his earlier positions and put them into a few bullet points and that way we can be certain to get them into the record as - in their entirety.

Michele Neylon: Okay thanks James. And I'm sorry for putting you on the spot. Marika, please go ahead.

Marika Konings: Yeah, this is Marika. I did already reach out to Tim and hope he'll come back and (unintelligible) the point shortly. And as soon as I get those I'll share them with the list.

Just to note as well that some of the previous emails did already have his input as well specifically on RADAR because I had been talking to him about, you know, how this could work and, you know, where he provided feedback as well and some of the more complicated earlier would, you know, require significant changes to the system but some of the more basic functionality could probably be accommodated in RADAR.

So as I said as soon as I hear back from him I'll share that information with the mailing list.

Michele Neylon: Okay thank you.

James Bladel: Yeah I think that's correct. And my takeaway from the chat was that maybe we focused a little too much on the negative aspects of what he was saying and we missed some of his suggestions and that was all I was trying to convey.

Michele Neylon: Okay thanks James. Sorry my - things are exploding here as happens every time I'm on a call. Mail just quit.

Okay then the - moving back to what we're looking at in terms of the - sorry - emergency action channel Marika has captured some of the changes in the version that is up on the screen in front of you. I mean, just looking at that - go ahead Marika.

Marika Konings: Yeah, this is Marika. If I can just highlight what changed between, you know, for Version 7 and Version 8. The main changes here that, you know, we changed in the last paragraph on the first page "will" to "may" in relation to the transfer undo. And I've added at the end of the

document under the implementation recommendations I've tried to capture our recommendation that the policy following implementation should be reviewed in a 12-24 month time span.

And what I tried to do as well indicate some of the areas that specifically should be addressed in such a review and then I would, you know, appreciate the working group's feedback whether there are other items that should be added or whether further detail or less detail should be added with regards to which item should be specifically considered as part of such a review.

Michele Neylon: Okay perfect, Marika, thank you very much. Does anybody have any issues, queries or questions or anything in relation to this at this time or is everybody relatively happy? Okay. Oh, okay, Bob, go ahead.

Bob Mountain: Yeah, just - I think - this is Bob, sorry. Just as we were wrapping up last week I just voiced some concerns over the lack of a fixed timeframe. So I wouldn't say I'm completely happy with the verbiage that we have; I'd just like to voice that - that one concern that I have.

Michele Neylon: Okay. Has anybody got a constructive suggestion for how to address this timeframe issue? Or even just a destructive suggestion? I'm open to anything at this stage. Does anybody have - ah, James.

James Bladel: Yeah, I have a - probably a - not a very good suggestion. But, I mean, I think that, you know, we've - right now in the way it is it's almost open to interpretation to the infinite. You know, you could certainly say that when, you know, when the transfer occurs a new year is added to the registration period.

And one thought would be well, you know, certainly, you know, it would have to occur within that year because if you were going to back out a transfer that had an additional year of registration term then you would essentially be backing that out as well and now you've got this kind of zombie registration that shouldn't exist anymore but it's still out there walking the streets.

So I know that's not what Bob is after but I was just thinking of in terms of, you know, just purely in the abstract how you certainly wouldn't want these things to go beyond the extra year that was added to whatever expiration date they had originally.

I don't think that's helpful and I don't think it addresses what Bob is after but it is just an attempt to put some boundaries on this problem.

Michele Neylon: Okay thank you. So, okay, so one parameter then is what, you're saying is maximum of one year after the original expiry? James?

James Bladel: Well, yes that's what I was saying but, you know, I don't know if that's a very constructive recommendation but it certainly puts a - it puts, you know, a stake in the mud out there, yeah.

Michele Neylon: Okay. The mud reference is interesting too; maybe I'm over-analyzing. Mikey.

Mikey O'Connor: This is Mikey. I think I'm going to pose this question to you registrar types who see the hijacking patterns. I mean, my concern all along has been that if we put a specific date in this policy we're essentially presenting a target for a hijacker to wait essentially to hijack the

domain in a stealthy way and then to wait until whatever date we put in this policy.

And then as soon as that date has passed continue to complete the theft of the domain. And so I guess the question I've got is in the patterns of hijackings that you've seen especially the stealthy ones how often does that kind of behavior happen?

You know, is it this, I mean, we've got a sort of doubly-compounded data problem; part of the problem is that we don't have real good available data for the frequency of hijackings but then we also don't really have good data for how this hypothetical would play out.

And so I have the same concern with 1 year, 5 years, 200 years because it seems to me that at some point we're presenting the thief with a methodology to complete their plan.

Michele Neylon: Okay Barry.

Berry Cobb: Hi, Michele. Sorry I was on mute. This is Barry. Yeah, just to kind of back up what Mikey was trying to say here. I mean, I can see both sides of the debate here. And certainly, you know, I can sympathize with the aftermarket community, you know, wanting to, you know, protect their domains.

I guess my question to you, Bob, is, you know, again I can understand why you want some more certainty around this aspect of the EAC but, you know, when we started down this road a while back and we interviewed the - or surveyed the aftermarket community I think the

biggest takeaway there is that that community didn't really see this as a problem.

And that if any one of their high value domains ever did get hijacked they were more than comfortable with the recovery capability of their domain because it's definitely such high visibility.

So I'm almost wondering if we're, you know, if going down this road of trying to put a cap on when the EAC can be invoked does it even make sense when if in fact a bad actor tried to steal a domain after X date that that domain probably wouldn't be stolen because it is part of an aftermarket community or even if it was it's probably highly likely that it would be recovered anyway. If that made sense, thank you.

Michele Neylon: James. Oh sorry, Mikey, beg your pardon. Mikey then James.

Mikey O'Connor: Sorry, that's an old hand.

Michele Neylon: I'm very tempted to make a comment about that, Mikey, but I will resist.

Mikey O'Connor: Sorry, sorry, sorry.

Michele Neylon: But if you do that again I won't be able to fight the urge. James and then Bob.

James Bladel: Yeah, James speaking. Thanks Michele. And this question is for Bob. I thought that changing the "will" to "may" might have addressed your concerns. I think - as I understood your concerns earlier that, you know, it was infinite; it was open-ended, there was no boundary on this.

And I think that that was a - that was a significant problem when you considered that the - the transfer undo would be automatic without any discretion. I'm wondering if changing the "will" to "may" alleviates some of your concerns about having a timeframe or is there just no connection between those two issues?

Bob Mountain: Yeah, Michele, can I respond?

Michele Neylon: Yeah of course, please, please.

Bob Mountain: Okay this is Bob. Yeah, James, I think it definitely helps the "may" but it - also on the other hand just continues to introduce uncertainty which I think is going to be a problem in that there aren't just really tightly defined rules.

And I totally understand the tightly defined rules as Mikey's point gives a blueprint to the hijacking community. However the - as Barry said the aftermarket was essentially saying - and again this isn't just for the aftermarket - the aftermarket was saying that hijacking is just not that big of a problem and we believe that the proactive measures should be emphasized rather than the reactive measures of which I think they're going to view this.

At any rate I think even the "may" gives you an undetermined amount of time which again reasonable but that's - it's still I don't think is enough to really bound this thing in a way where people aren't going to respond thinking that they have a domain which could be clawed back, you know, after, you know, an extended period of time after they purchased it and assumed they owned it.

So I think the - it definitely helps, James, I'm just - I'm just still uncomfortable with the sort of uncertainty that we're positioning here.

James Bladel: If I could respond pretty quickly here, Michele?

Michele Neylon: Oh please do, please do.

James Bladel: Yeah, Bob, you know, I can appreciate that. I guess what I'm saying is since we've left the timeframe open and we've removed the link to an automatic undo we have the same degree of uncertainty that we have in the policy today.

I could, for example, instruct all our domain services team to go and try to get a name back - call another registrar like let's say Paul - put him on the spot here a little bit. You know, and our team could call Paul's team and start to try to claw back a name that's 30, 60, 90, 100 days old now.

It doesn't mean we're going to get it; it doesn't mean that he's not going to tell me to, you know, take a walk. I guess what I'm saying is I don't see how this is materially different than the situation we have today because we have decoupled it from an automatic action.

Therefore the timeframe to me has become significantly less, you know, less crucial and really except for the fact that the registrar is on the hook for answering in a shortened period of time from the registrant's perspective I don't know that it's any more or less certain than the status quo.

Bob Mountain: Yeah, so my understanding the way it works today it is registrar to registrar sort of relations that resolve these situations, right?

((Crosstalk))

Bob Mountain: Most of the time? Okay. And that the intent of this is to be applied where we have an unresponsive registrar? Is that correct? So you have the, you know, somebody in Myanmar who's just not answering the phone and this gives the previous registrant a way to get it back, yeah?

James Bladel: Right it says essentially answer your phone, right.

Bob Mountain: Right, does this now with the new lucent wording help the, you know, the Myanmar situation?

James Bladel: It's not ideal. I think that a lot of us were discussing last week that we're not - we're not happy with the - we're not happy that the consequences have been watered down. I think Mikey was particularly frustrated last week and I think a lot of us feel like it falls short of something that's really going to help address those situations.

But I think that over time it will accumulate enough incidents where a registrar fails to respond that we can then go to compliance and say now here's something you have in policy that you can take some sort of action on these folks.

But, yes, I mean, it doesn't - it's not - there's not a straight line between failure on the EAC and reversal of a single transfer; it's much of a, you

know, sullyng their record I think over time in order to build a case that other actions should be taken.

Michele Neylon: So is that okay with you, Bob?

James Bladel: But I don't want to be - but I don't want to be speaking on this - and please, other guys, you know, anybody else see it differently please jump in.

Michele Neylon: I'm just going to put myself in the queue as well and just jump both Mikey and Paul and Bob. Just for the record I am trying to maintain a certain degree of neutrality as working group chair which is why I have deferred to the other registrars as much as possible on this though obviously as I'm a human being I can't manage that all of the time - just for the record.

With respect to the entire thing about getting registrars to pickup the phone the - and the story that we tell quite often is about James trying to contact some small little registrar in Northern Europe - I think it was about 18 months ago - and ended up having to contact me on - I think it was Good Friday or something to see if I had a contact with that registrar which I kind of did - because there was no way for James to contact them through normal channels.

Right, Mikey, then Paul, then Bob and what was my poor choice of word, Bob - words, Bob, or do I want to know? Maybe I don't want to know.

Bob Mountain: Wasn't that my choice of word for a hijacking community?

Michele Neylon: Oh see I wasn't sure what you were referring to. Hey, maybe they've got the wrong social network, you never know. Mikey, Paul then Bob.

Mikey O'Connor: Thanks Michele, it's Mikey. I was very frustrated on last week's call and I do want to apologize formally to the group for that. I was caught by surprise by a couple of things and behaved badly. But I'm better today I hope.

And I think that the other concern that - I can accept the version that we have in front of us and I will encourage the BC to support the version we have in front of us even though it does fall a bit short. I agree with James that this at least gives us a mechanism to start building a record. And it also gives us the opportunity to come back to this in a year or two and make changes if they seem to be needed. So I'll get that out of the way.

So the thing about the "may" versus "will" that I want to sort of put back on the table one last time is one of the appealing things about "will" is that it meant that there was no adjudication role for either registrars or registries; it was just a mechanical thing, a kind of binary test. And you didn't have to insert any judgment.

The "may" wording means that the registrar - not the registry - and I think this is important, we need to get back to Barbara on this - is that because the "may" occurs in the registrar requirements of this policy it means that the judgment call as to whether to invoke the undo stays with the registrars in this version.

And the registries' portion of the responsibility is completely unchanged from existing policy. And I think that's one of the things we need to

clarify if we go with this version is that the registries do not have to play the adjudicatory role only the registrars do.

And that's something that I think the registrars - if you guys are comfortable with it I'm okay with this. But as I said too many times last week it makes me nervous. That's it.

Michele Neylon: Paul then Bob.

Paul Diaz: Thanks Michele. It's Paul. Look, I don't want to belabor points that have already been made; I think James made it most eloquently. Let's not forget what this EAC is about, people, it's just a communication channel.

You know, I get very frustrated hearing terms like claw back and all these sort of things and it's like, come on, let's look at what's on paper. Some of the things that are being discussed or described are not realistic.

And I share Mikey's frustration and absolutely don't feel that you need to apologize to the group. Things got - the rug got pulled out from under us last week in terms of a certain group of actors saying that basically they're not going to - they're not willing to do anything when it comes to these hijacking situations or at least they don't want to be put on any more of a hook than they feel they already are on.

You know, so when it's all said and done, all we're doing today is creating, as James already said, a - bottom line is the mechanism that we can provide compliance with actionable information as they can work with non-compliant, non-responsive registrars, but all of this (fud)

about, you know, claw backs and things happening, come on people, that's not going to happen.

And let's also remember, registrars are going to have to be involved. What registrar is going to blindly listen to somebody who's trying to "claw back" a name and risk their own operations, a potential lawsuit and everything else unless they're very confident that there's a there there, that there's some real case to pursue, a genuine hijacking case?

I mean, I think we have to kind of cut through all of this. We spent a lot of time the last couple of weeks spinning out hypotheticals and it's just non - it doesn't seem it's even worth it to me. It's such a little part of the long tail given where we currently stand with what's on paper in front of us. End of rant.

Man: Okay thanks. I'm waiting for the Adobe Connect to reload so whoever was next in the queue, please go ahead, once by browser fixes itself.

Bob Mountain: Right, this is Bob. So no, I think I'm - I think between James and (Paul) I'm getting it. I think one of the other - and it does sound - it's an awful lot like what we have today which is essentially communication between registrars is used to solve the problem, so in the event of a hijacking they just talk.

The one thing that we did - what we - in the ETRP we had the I- one of the feedback - some of the feedback we received was the lack of specifics in terms of what happens if it is abused, though? So, (Paul), the - you know, you remember the feedback. It's - there doesn't appear to be - there weren't any specifics for the downside which is if it is invoked frivolously or carelessly, what happens then?

Is that something that's addressed later or is that something we could put here to try and (assuage) that concern?

Man: Does somebody want to answer that?

James Bladel: Yes, this is James, if I could jump in there because this was a topic maybe not last week but two weeks ago, where I sent a message around. And I'm not sure if it's worth captured in here or in this latest version.

But, you know, Bob, I mean, I think the way I was viewing it was there're two ways to fail. If you're a registrar, there're two ways to fail at the EAC. One is you don't respond in a timely manner so that's a failure as a recipient of an EAC.

And you can also fail as a sender and that is by using this for non-emergency frivolous or let's say spammy type activities. So I think that, you know, whatever consequences we have left for meetings, you know, for failure to respond to EAC where we're just kind of essentially building a record for compliance, I think that the same thing applies to someone who would fail the sender role by (planning) the EAC channel with a bunch of non-urgent issues.

I think that's what you were getting at. Does that answer your question? But the thing is, I don't see where that is in this report. Maybe Marika can help us on that.

Man: Marika, you have your hand up. So James is calling you out so this is all perfect timing.

Marika Konings: Yes, this is Marika. I think that issue is actually addressed in the frequently asked questions document because I do recall that in the (unintelligible). It's the same as with any other policy. I mean, it's probably not in the arena of this working group to, you know, prescribe what happens in those cases but it's presumably a compliance issue if you use a policy in a different way than it was intended or it's clearly written up. I presume there are some compliance actions that can be taken.

In response to this question on timely, you know, concerns or issues that people feel that might need further consideration, I think it would concur them to maybe look at the language in relation to the (implementation) recommendations and specify there that, you know, any review down the line should specifically consider some (unintelligible).

So I don't know if (you also) have concerns if you want to write up there what your review should specifically address to make sure that, you know, when the time comes you have a list of items that the working group at this stage probably - that maybe didn't need to be incorporated here but should be considered in the future point of time - in time.

Man: Thanks Marika. With respect to the compliance issue, what - do you think Marika, you could possibly find out from your colleagues in the compliance team a bit more about this? Because I think one of the concerns that I have, and I'm not sure about other people of this group would have, is that we need to be sure that something - that whatever policy that might have a compliance angle to it actually does.

I mean, I say - it would have something that is tangibly actionable as opposed to something which is left open to - for something far too broad, wide, and we end up where - well, you know, compliance really haven't got enough to actually do anything about maybe - I mean, I don't know who the best person there is really to talk to about this because maybe you should be - it should be...

Marika Konings: I...

Man: Sorry.

Marika Konings: I talked to - I talked with (Pam) because she has been reviewing this, you know, policy when we've discussed it internally so she's, I think, aware of what we're proposing here so I'll check with her, if she feels the current language or, you know, in the general context this - a registrar doesn't follow or abuse a certain policy, what kind of mechanisms are available or whether there's anything specific that should be written in here to make sure that, you know, compliance has some tools to address in case of abuse.

Man: Okay but it's very - I mean, from my own personal view, and I'm not sure about anybody else's, if the EAC is designed to - how do I word this diplomatically - it's Tuesday. Diplomacy's out the window. If it's just aimed at weeding out non-compliant - oh yes, James is reminding us that there was entire list of escalating remedies.

But the thing - yes, but this was during the presentation from compliance last week - but the thing I suppose is this, is that whatever we do in the policy, if it's to weed out the non-compliance/bad actor

registrar/ones who are incapable of actually doing their jobs, then it needs to be - it needs to do that rather than ending up causing headaches for people who are actually trying to comply.

They did actually give quite a good presentation last week. It was a lot livelier than any previous presentation we've had from compliance. Okay then, Marika, go ahead.

Marika Konings: Yes, Marika - this is Marika. To note on the issue of whether, you know, there's no response, that is written in where - you know, that the losing registrar will report (various) to respond to EAC requests to ICANN compliance and the registry operator.

So it does - and it says here so it may result in further action by ICANN up to and including no (new or) terminations of accreditation. So I think we do specifically deal with the known response to EAC requests, but I understood that question for compliance now relates more to abuse in the way of, you know, using the EAC channel for non-emergency requests. Correct?

Man: Yes.

Marika Konings: Okay.

Man: So do we have some of your thoughts on this? James has made us an interesting suggestion. There were some slides from the compliance team about possible escalation routes just for those who obviously weren't in Munich last week.

The compliance team gave an overview of what exactly compliance does and doesn't do and how they do it. And one of the slides was in relation to the possible escalation routes for - that compliance can take against a registrar or registry that does not seem to be complying with policy.

Marika, could you ask them for some of those slides, do you think, which might actually help us a little bit?

Marika Konings: Yes, I'll do it.

Man: Anyway, right. Moving on. Okay, is there anything further on this particular topic at this time? Oh my God. Hands up like everywhere. Marika and then James.

Marika Konings: This is Marika. Just a know that I also made a couple of changes to the FAQ based on the changes we made in this document and maybe just encourage people to review that. My ideas now following this call that I think that we have hopefully agreement on the language here and as well, the FAQ to incorporate that into the final report so we have all the language there in one place.

Man: Okay perfect. James.

James Bladel: Hi. This is James speaking. So looking at the clock and then looking at the calendar, are we done? Are we close to done? We've been at this EAC for quite a while and I, you know, maybe diluted myself into thinking that we were really close before.

Each time it's not turned out to be the case. So I guess my question is what, maybe by show of hands or - I mean, can we either declare that this is, you know, being wrapped up with a ribbon on it and we can move on or are we - or can we at least put out a finite hit list of, you know, I feel like this is almost like the (Michael Cosim) of the new gTLD program if every time we look at it we see something wrong with it.

So I just - I want to see if we can rally everybody around this idea that we're done with it.

Man: Okay then would it be helpful, James, if we were to simply do like we did with the 60 day lock and just do a very quick simple poll to the members of the working group as previously, you know, just basically do you support us? Yes or no? The EAC is currently written. Let's keep the question very, very simply and then we can decide whether we have - which type of consensus we have.

I personally feel that at the moment that we have strong support but significant opposition. But that's just my own personal view.

James Bladel: The mechanism, you know, of whether we - obviously we can't do it on the call because we have so many apologies but I don't know that we need a full blown poll or if we can just capture everything that we said thus far and all the changes for this document, put it to the list and say, "Look, you know, cut off on Thursday, Friday, or you know, whenever," and say, "You know, any more, you know, any more, you know, give us a thumbs up or give us your immediate things that you don't (purport)."

And I think it's a - you know, I think that we just basically have everybody put their marker down on the table on this. Thanks.

Man: Okay, no, I think that's a very good idea. Thank you James. Marika, I'm going to go to you in just two seconds. Based on - actually looking at this I see what Barry was saying. My apologies. Okay, the options with respect to consensus are full consensus which means that there's everybody - everybody agrees, consensus where there's a small minority in disagreement, strong support but significant opposition which just say - if I was using percentages, let's say if it was like 66% versus 33% or something along those lines, divergence and then we have minority views.

So yes, you could see how it could be leaning towards consensus. Marika, please go ahead.

Marika Konings: Yes, this is Marika. I - for people that want to have a closer look at the working group guidelines, it actually outlines as well the recommended process for assessing your level of consensus.

And I think it actually - although polls are an option, I think it actually discourages polls as a, you know, it does tend to give a bit (streaming) out there in these counting votes and doing percentages where - while the objective is to get to consensus.

So the recommended approach is more that in the following all the discussions the chair makes an assessment of saying well, I think we have consensus and put it out to the group, you know, on the call and also on the (unintelligible) saying does anyone disagree? Do we have full consensus or not?

And that way you can then go through the positives. There are still people speaking up and saying well no, you know, I don't think that's full consensus because I disagree. Then the question is, okay, you know, is there something that can be done to accommodate you so we do get to a full consensus or do we have a consensus position where you want to file a minority view.

So I think the way, you know, the working group might want to consider is once we have, indeed, all the recommendations together is putting them all out and, you know, maybe go through them on a call to see what everyone stands and, you know, do a call like that.

And I think for at least most of the other recommendations, based on our previous report, there seems to be full consensus on supporting those. Again, I think that's something that we - we'll need to assess once we have the final report and the final recommendations. But that may be an approach to do it instead of doing a formal poll.

Man: Okay thanks Marika. I think I might need to have a chat with you between now and next week just to make sure that I fully understand exactly what the options are. But I think I'm beginning to get my head around it.

Okay then, does anybody else have any - yes, okay, I want to get this - I didn't say anything about it because I'm waiting for the next call, (Paul). I was just going to say I was going to talk to Marika before the next call which isn't the same thing.

So Marika still has her hand up.

Marika Konings: Yes, again, a proposed approach for the specific language, what I can do is basically finalize the text as we have here basically saying that all of that, you know, redlines and basically calling it final and put it out to the mailing list probably tomorrow and basically saying, look on the working group call yesterday everyone agreed with, you know, this version. If there is any opposition, any objection, you know, please speak up now.

If not, this is going to be incorporated as is in the final report and, you know, we assume there is consensus.

Man: Okay perfect. The thing here, that Barry has put a couple of points - let's see, Barry and James have both put a couple of things in the chat which I'd kind of like to highlight of some of the areas of divergence within the group.

So just for the record, the may/shall argument discussion, debate, semantics - call it what you will - that hopefully has dealt with most of the issues people had in that area.

Hold on a second. Then there was the registry minority position with respect to the four hour SLA, just for those whose memories are getting a bit weak, they felt that some of the registry operators might not have the staffing levels to be able to deal with an SLA of four hours.

Was there anything else that was a big bone of contention? Oh, the time limit. Well, the time limit concept, I think we've gone that way, right. Is there any other kind of big points that people feel there was

divergence? Oh that's under the may/shall. Sorry Barry. Please Barry, jump in quickly because you probably - you could probably talk faster than you can type. Barry?

Berry Cobb: This is Barry. Actually I can type faster than I can talk. But anyway, I was just pointing out that the duration is under the may/shall bucket, if you will.

Man: Okay perfect. All right then. Okay then if we - oh, Mikey, go ahead.

Mikey O'Connor: I was just going to do sort of the same thing on the registry concern about the SLA. I thought that on the call last week we pointed out that the SLA only applies to registrars, that we're not changing anything in the registry responsibility here.

Man: Anybody have any thoughts on that?

Barry Cobb: This is Barry. I would agree and just what James had put into the chat. I'm not sure if we've got a definitive response back from the registry group so that's why I still call it kind of outstanding but for the most part, I believe that's somewhat resolved and while it's still somewhat dangling out there, I still think it kind of folds up in the consensus realm or level. Thank you.

Man: Okay. Right. So okay, we have a couple of things with the registries. Okay let's - if we take this to the mailing list just to go through and just see if we can go to this - through the mailing list tomorrow and just ask for people, if they agree or disagree with things and then hopefully any other outstanding matters that we're not aware of, we'll hopefully - fingers crossed come to the - hopefully will be resolved.

Now the other thing was with regard to the 60 day lock which I would like if we could - like to go - spend a few minutes on. Now we conducted a poll and at the moment now this - there were three options - leaving the topic untouched, so whatever way it is now, leave it alone, don't touch it, blah, blah, blah.

Changing it so it becomes mandatory, and - or voluntary best practice. And if you look at the results there, three people were supportive of leaving it untouched. Go ahead Marika.

Marika Konings: Yes, no go ahead. Finish your introduction and I'll wait.

Man: I thought you were going to jump in just to tell me I was getting it all - I was getting it completely wrong. Okay so because you can - you could vote in mult- in more than one place so you could say that you're - you know, you could have green, amber or red. I mean, red, you're opposed. Amber, you don't mind one way or the other sort of thing. Green, you're in support of.

So the - what - I'm having difficulty reading that - 156804309. What's that actually mean? Is it - oh, three green. Oh okay. Yes, sorry. Okay, green's not working. So there are only three people in support of not touching it. There were six in favor of a best practice. And there were eight in favor of a mandatory change.

So - yes, go ahead Marika. I'll let you now say something meaningful.

Marika Konings: Yes, this is Marika. Maybe have a fourth option that the working group might want to consider as it's, you know, clear that there's no

unanimous support for one way or the other and as this is an item that, you know, we didn't really put out on public comment either.

Another option the working group might want to consider is, you know, recommending that this specific issue is considered as just part of the next IRTP because there is some more time to discuss it, you know, explore the different options or, you know, pros and cons, have as well opportunity to actually put this out for public comment and community input.

So maybe that's a - the working group might even consider that as an alternative approach instead of trying to, you know, find a middle ground in (mostly) these three issues.

Man: Okay just sorry Marika. I'm just - when would we put it out for public comment?

Marika Konings: No, I mean, as a part of a next IRTP. My suggestion would be that the working group could also consider providing this to the council as one of the issues that should be taken up by the next IRTP as we still have C, D and E to go.

Man: Okay. All right. I - the only thing I would say, and this is based on presenting to the GNSO council several times over the last what seems like eons but was only less than two years, they really don't like stuff being punted to the next working group. They really hate that and they're not going to like that suggestion unless, of course, all the counselors have certainly changed dramatically. James, go ahead.

James Bladel: Yes, (Mikali), I was going to say something similar. I really don't think that we should be punting it down. You know, sometimes we uncover an issue during the course of a working group that we realize is too big and we need to, you know, kick it through a new working group.

I think that's definitely the case when we think about the change of control idea. This one, however, has been in our charter since day one if I'm not mistaken and the only reason we're catching it last minute is because we spent too much time on other items - EAC and ETRP and this one kind of got lost in the weeds.

I know that some folks feel like it's being rushed. I agree. I believe that that's kind of a collective failure on all of our parts that we kind of missed the ball on this one and now we're up to the end and we've got this loose end.

And then I wanted to also mention that for those saying that, you know, we need to put this out for public comment, we need to, you know, we need to discuss this further, I would point out that our (last) around the public comment specifically asks people to wait on this subject and we received zero feedback on this.

So, you know, maybe it wasn't highlighted clearly enough. I'm not sure. I just - you know, I really would be reluctant to proceed as Marika has pointed out because I think that this was on our hit list when we first started out. You know, if we don't get it done, it's completely on our shoulders that that didn't happen. And, you know, I think that I agree that folks believe that there should be more comment.

But, you know, there were two windows I think where this was specifically asked for comment and received none. So just pointing out that I don't think that's a - I don't think that's a very good idea. Thanks.

Michele Neylon: Okay. Thanks James. Marika.

Marika Konings: Yeah. This is Marika. James, if I can just then ask you which charter question do you think specifically asks about this issue? I mean we do have the question in relation to a change of registrant. But we're now talking specifically about, you know, lock following a transfer. So in your view, which - under which charter question does this issue specifically fall?

James Bladel: I'll have to go back. I know that this was not a last minute add on but rather this was an oops, I can't believe we forgot to address this. So this is not something that was tacked on at the end of the working group. This is something that's just been hanging on there dormant since the beginning. But I'll go back and find the charter if I - I don't have it in front of me. I keep getting kicked out of Adobe too.

Marika Konings: I can put it up now so, you know, people can have a look at it if you want. (Have charter questions).

Michele Neylon: Okay. Here are the charter questions. Ah, oh my God, scary. I'm - whoa. Changing fonts. My head's hurting. Working group...

((Crosstalk))

Michele Neylon: ...the following questions.

James Bladel: I believe it came under D for example because we were trying to...

Michele Neylon: Yeah. (Unintelligible).

James Bladel: ...figure out whether...

Michele Neylon: Whether standards or best practices should be implemented regarding use of a registrar lock status. So yes, that would be under D. Is that okay Marika?

James Bladel: I mean we discussed that it was pretty much a universal best practice. We were just trying to figure out whether or not it should be a mandatory standard. So it's not specifically addressing our charter question but I think early on in the working group we discussed it as something that needed to fall under D.

Michele Neylon: Okay. Marika.

Marika Konings: Yes.

Michele Neylon: You dropped off - oh you're there. Okay. Does that address your concern?

Marika Konings: Yes but I do have a concern that we - actually I don't think we made any kind of draft recommendations around this issue in the initial report or the proposed final report.

So one concern I would have, and I think some, you know, people raised that as well that if we still then put out this recommendation there hasn't been any challenge for the community to actually

comment on. So that would be a concern I, you know, would like to share with the working group.

I mean if no one else shares it, it's just mine. I'm looking back at the report just to see, you know, if we had anything in there but that's something that, you know, the working group might want to consider.

((Crosstalk))

James Bladel: Look, I know we're up against the time. There was specifically - I have to go back to my original email and I don't have it in front of me. But I said I believe to the point and the report where it says we specifically - the working group is specifically asking for feedback on this issue.

So I don't have it in front of me and I apologize that I'm not able to kind of trot it out here. But if you would like me to find that and send it to the list again, I will do so.

Michele Neylon: Marika.

Marika Konings: Yeah. This is Marika. I'm quickly looking at the report. I mean if we've raised it and we've ask for input, I think then, you know, that then we're covered. I'm looking as well to see where we discussed it and if I find it, I'll post it in the chat.

Michele Neylon: Okay. Thanks. Barry.

Barry Cobb: Thank you Michele. This is Barry. I'd just like to throw my support in behind what James is trying to push here as well. This is definitely

something the group needed to accomplish and we - and, you know, we're pretty close to doing it.

And I'd like to carry it a little bit further is, you know, looking at the survey results chart there, I guess it's in terms of trying to lay down where the group's designation would be. If it helps, I'll remove my okay from the best practices.

But, you know, if I start to look at that, I think that this is a great exercise to marry against our designation chart of where the working group stands on this position and then be able to document that support or not support and put it in the final report.

And I do agree. I think there was plenty of language in the report specifically about, you know, what entails a best practice around the registrar lock and what goes on out there. Yes, we didn't provide specifically recommendations or not but, you know, the community's pretty well informed and we certainly didn't get any, you know, feedback either way.

So, you know, lastly I'd just like to say so looking at that chart at the very least when I, you know, when I read the charter question whether standards or best practices should be implemented, at the very least I can easily say we have consensus on best practices.

Now I don't - I would - I support more it being policy than best practice and so that's why I reiterate if need be I'll remove my okay from best practice. And then there's only three people that don't think that this should either be a best practice or a policy.

Perhaps we need to document them as a minority position if we go with - you know, we've got strong support but significant opposition for it being policy. We've got consensus easily for it being best practice and I'll stop there. Thank you.

Michele Neylon: Thank you Barry. Jeremiah.

Jeremiah Johnston: Yeah. This is Jeremiah. You know, as I mentioned in my statement of interest, you know, one of the hats I wear is with the Internet Commerce Association and on our Board call recently that group very much does not feel like this question has been debated in the comment period. And they very much want it to be.

Speaking for (Sato), now I mean I can definitely understand how (D) there is definitely making this an issue that should be addressed. But I think there's a big jump between, you know, a vague concept of standards or best practices to a concrete 60 day loss is going to have significant logistic impacts on portions of the market. So I mean I just don't think it's something that should be pushed without being vetted.

Michele Neylon: Okay. Does anybody have any thoughts on this? James.

James Bladel: Yes I'd like to push back on the concept of significant impacts to the secondary market. You know, I think that what we're saying here in effect -- now let's be clear -- is that a name should not transfer twice within 60 days. Not that it can't transfer and not that it's introducing sufficient friction so that it is no longer portable for commercial or transactional purposes. What we're saying is that it cannot transfer twice.

My concern is that there's another bit of this sentence -- reason for denial -- which is that a domain name should not transfer 60 days after it was originally registered. So, you know, if the second market is the tail, then there's the dog. Okay.

But the domain name should not move from the registrar that created it for at least 60 days after it was born. And I'm concerned that if we start speaking the language in this one that we're going to create unintended consequences of domain names hopping out of registrars within days or even hours after they were registered there.

And what the implications that that might be for the - not just the security and stability of the DNS but also for use and other types of issues like that.

Jeremiah Johnson: (One moment). I'd like to respond if I could.

Michele Neylon: Oh please. Go ahead.

Jeremiah Johnston: And it's just - well I mean I think in theory I mean, you know, that's all that can be - I could agree with that. But it's I think in practice there is many different kind of trades happening under different kinds of offices and they're not bad. You know. I mean I think a lot of this discussion seems to while not blatantly labeling those kinds of transactions as, you know, as negative consequences. You know, it's, you know, it's certainly implied.

You know, and I think the domain owners as the ones who have the ultimate risk at stake that the domain is lost - the domain is hijacked, domain owners should have the say. Some domain owners want to flip

domains. And I don't think it's necessarily ICANN's position to take a stance on flipping those domains.

You know, so if impediments like this are put in to de facto prevent those things, you know, we're using the protection of the registrant as an excuse to take power away from the registrant and that would concern me. I would at least like to see something that's more narrowly tailored or that gives registrants options rather than locking them into something that, you know, might not be their desire or best interest.

James Bladel: Michele, if I could respond.

Michele Neylon: Please, work away, work away.

James Bladel: Well Jeremiah, I think then this will affect some of our earlier conversations is that, you know, the difference between a transfer and the way registrars use this word transfer and the difference between the way the aftermarket uses the word transfer.

A domain name can change control or change owners 100 times or 1000 times and that's not what we're talking about. We're talking about how many times does it change registrars, which I grant, you know, it happens pretty commonly in conjunction with a transaction between two parties. So that's not necessarily a required element that that happened as part of a - as part of a sale.

So, you know, I think what we're trying to say is if you're going to have that second transfer in that 60 day period that it just has to cool off at a single registrar, either the first one or the second one or the third one. You know, go ahead and pick one.

But, you know, it should at least spend enough time at one of those registrars in order to, you know, establish like, you know, that someone has a basis to execute whatever terms of services they're agreeing to.

Jeremiah Johnston: Well just when you say cool down, I mean again, that's kind of charged language that implies that, you know, the flipping is inherently negative.

James Bladel: No. No. Again, want to go back...

Jeremiah Johnston: (Unintelligible).

James Bladel: ...to my earlier statement. The domain name can change control 100 times or 1000 times. It is the movement between sponsoring registrars that we're focused on here.

Jeremiah Johnston: But an individual choice of registrars is an individual choice. You know. And so...

Michele Neylon: No it's not. No it's not. I mean the - there are two things here which keep on getting confused, the change of control and the change of registrar. You are - you've - it is convenient for professional registrants to lump the two together. The thing is professional registrants are just one group of registrants.

You have - there is nothing to stop you from changing registrant multiple times. But what we're talking about here is the change of registrar, which is not the same thing.

Jeremiah Johnston: Well and I understand that. And for (sato), I mean if anything we prefer that the domain stays where it's at. It's a hell of a lot easier for us to do our job. You know, but the fact of the matter is that people demand to movement to the registrars that - where they have the rest of their holdings at.

And so if we have the locks in place and people are trying to put together deals and things have to move to, you know, escrow until something can happen, I think it creates, you know, additional risks because you can't just process transactions cleanly and effectively.

Michele Neylon: Jeremiah, with all due respect, if that were the case, why do you - why do you list domain names that are less than 60 days old?

Jeremiah Johnson: I mean trying to be...

Michele Neylon: I mean because there is no way for me to transfer a domain that is less than 60 days old to my registrar of choice. However, (Sato) will list those domains on your great domains option platform and elsewhere.

Jeremiah Johnson: Yeah. It's not ideal but I mean it's something that we live with. And so we just as these things are being discussed, we want the practical implications to be, you know, discussed in light of the practicalities of what we see in, you know, the volume of transactions going over our marketplace.

I mean it's not hypothetical. And it's our customers demand this. You know, and that's what I'm saying is that, you know, to me it's about registrant rights. It's not about (Sato) per se - it's not about (Sato) and

what's logistically easy for us. It's about registrants' rights and what's logistically right for them.

You know, and I understand the desire to protect them from themselves even sometimes. But that's, you know, establishing the rule for this rather than it being a registrar by registrar decision, you know, and where registrants can choose going to the registrars to have policy that they, you know, agree with. You know, this takes that choice away from registrants. And again, that's my general (consent).

Michele Neylon: Mikey.

Mikey O'Connor: This is Mikey. I'm a registrant and I think I'm a member of the ICA although I'm not sure because their billing processes are a little bit sketchy. And I guess I'm going to push back just a little bit on the registrant rights thing because I'm one of the folks who's pretty in favor of this idea.

And the reason I'm in favor of it is because of the difficulties that arise when domains quickly skip across several registrars in the process of being stolen. And this is the primary focus of this. The quote cooling off period that James mentioned isn't the cooling off of the marketplace.

It's an attempt to slow down a bad guy stealing domains from good guys whether they're domainers like me or businesses or individuals who have through no fault of their own an amazingly good domain name and somebody steals it.

So one of the concerns that I guess I would like to raise is that there's a fair amount of misinformation out in the domainer community which I

read and I wince at but I never respond to because it's being promulgated by people who tend to take pretty extreme actions when you disagree with them. And I choose not to get into those fights.

But I am going to push back and say that the domainer community is not unified around this. And that some of us are actually quite concerned about theft and this is primarily aimed at addressing that concern.

Michele Neylon: Okay. Thank you Mikey. Anybody else want to weigh in on this?
Marika.

Marika Konings: Yeah. This is Marika. I actually have a question that I also posted it in the chat because we do have another recommendation that, you know, proposes new language for denial Reason 6 that basically also talks about that the registrar must remove the log or provide a reasonable accessible method for the transfer (conduct) to remove the lock within five calendar days.

So I'm wondering if - would, you know, if this lock would be mandated, would that fall under the same criteria or requirements of that - in principle that is a 60 day lock but if a registrant would, you know, provide whatever a registrar requests. It could at that point remove the 60-day lock and transfer out sooner than that. Is that foreseen as part of the discussion or would this be an exception? I'm just trying to understand how the two would relate if at all.

Michele Neylon: James.

James Bladel: Yeah. If I can address Marika's question. I believe that they do not relate to that particular bit of the language - new language for the reason for denial. If we go back to my message, what I was suggesting was that there are two reasons for denial that are currently optional that we have discussed making them mandatory.

And we pointed out that they are for all practical purposes with the most legitimate and, you know, market-leading registrars, they are already in place today. Which is that if the domain name is less than 60 days old from its registration date or domain name is less than 60 days from a previous transfer in that it cannot be transferred out again for that time period.

And what we were taking about doing is taking those out of optional reason for denial and calling them something else, calling them mandatory, you know, reasons for denial so that a registrar is not, you know, in a position where they may, you know, deny transfer but rather they shall deny transfer.

And, you know, I'm - anyone who knows me from PEDNR and the other working groups knows that I'm always in favor of registrar flexibility and registrar discretion. However, as we've discussed I think in this call, when it comes to security issues, unfortunately that creates the weakest link type scenarios and, you know, hijackers know exactly what the target - which ones are most vulnerable.

So I hope that answers your question Marika that they were not part of that reason for denial 6; that they would actually go into a separate section.

Marika Konings: Okay. Thanks.

Michele Neylon: Okay. Anybody else want to venture into this? No. Okay. James, you have a hand up. Is this a new hand, an old hand?

James Bladel: No, that's an old hand. I keep getting locked out of - I'm having Adobe issues today. Sorry.

Michele Neylon: Don't worry. I'm going to have to go checking plug-ins afterwards because Flash crashed everywhere - every which way imaginable. Okay then. With respect to the 60-day lock, okay, there are a couple of people who have strong opinions against this.

There are quite a few people who have - who are happy to make this a best practice. So it moves from being optional to a best practice, which means it's still not obligatory. And then there are quite a few people who want it to be mandatory.

So we need to move forward with respect to deciding at what level of consensus we have for each one. So I think we'll do this by email tomorrow. And ultimately we don't want to punt this to another working group because that would not be - that would not be reasonable. If we end up where we cannot reach a reasonable level of consensus, well so be it. But that at least just means we will have done our best to address this.

In my own personal opinion as me, I do not feel that having more extensive discussion of this is going to dramatically change viewpoints. But that's just my own personal opinion.

Okay then. As with respect to this at the moment just to clarify in my own view, I think we're at - we're in a consensus position. So in other words, only a small minority disagree but most people seem to agree. If you - okay. All right then.

It is 18 minutes past 4:00 in my time zone. So I think we rather than trying to belabor this any further, I will give you all back a few minutes of your lives. And let's follow up on this by email and let's try and drive this home for the - in the final run and not punch too much to other working groups. Marika and then James.

Marika Konings: Yes. This is Marika. If I can just encourage on Item 4 if people can have a look at the public comment review tool and make sure that I've captured all the - your response of the working group accurately because this will be - either incorporated or linked in the final report.

And I think the last update we didn't really go through, you know, though of course we discuss all the comments just to make sure that people have a look at that. And in the meantime, I'll start working as well on producing a final report for everyone's review incorporating the new EAC language and make any other changes that are required to mark this as a final report. And hope to get that to you ahead of next week's call.

Michele Neylon: James.

James Bladel: Hi Michele. James speaking. Just wanted to confirm perhaps with Marika that looking at the calendar her today's the 17th. Next call will be the 24th. And that's basically it, right, to make the Singapore cutoff?

Marika Konings: This Marika. Yes. The publication deadline for Singapore is the 30th of May but I think as I've already mentioned before as this is not a report that's going to be discussed in Singapore by the community, you know, we can be a bit more flexible with that deadline.

As it is discussion, you know, as we're going to discuss it with the GNSO Council, I think the earlier we can submit it to them, the better. But as it is not strictly for community discussion, we have a bit more flexibility in the timeline, as I understand the publication deadlines for Singapore.

James Bladel: Okay. Thank you.

Michele Neylon: Okay. Any other matters that need to be raised? Okay then. Well I'll speak to you all then next week and by email in the interim. Thanks everyone.

Mikey O'Connor: Thanks Michele.

Man: (Thank you) Michele.

Man: Thank you.

Kristina Nordström: Thank you very much. (Louise), that'll be all for today.

Coordinator: Thank you. I'll get the recording stopped. Have a good day.

Woman: You too. Thank you very much. Bye.

Coordinator: Bye bye.

END