WHOIS Working Group A "Responsibilities"
Teleconference
TRANSCRIPTION
Wednesday 2 May 2007
15:00 UTC

Note: The following is the output of transcribing from an audio recording of the WHOIS Working Group A '"Responsibilities" teleconference on May 2, 2007, at 15:00 UTC. Although the transcription is largely accurate, in some cases it is incomplete or inaccurate due to inaudible passages or transcription errors. It is posted as an aid to understanding the proceedings at the meeting, but should not be treated as an authoritative record. The audio is also available at:
http://gnso-audio.icann.org/whois-wg-subgroups-a-20070502.mp3

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

Attendance:

Steve Metalitz - IPC - wg chair

Philip Sheppard - WHOIS wg chair

Carole Bird - observer

Pat Cain - observer

Ute Decker - IPC

Steve DelBianco - CBUC

Bertrand de la Chapelle -observer

Christopher Gibson - observer

Lynn Goodendorf - observer

Robin Gross - NCUC

Hope Mehlman - observer

Kari Moeller - observer

Ross Rader - Registrar c

Adam Scoville - observer

ICANN Staff:

Maria Farrell - GNSO Policy Officer

Glen de Saint Géry - GNSO Secretariat

(Steve Metalitz): …started the recording and we can start the meeting.

I want to thank everybody for…

Woman: Sorry, (Steve). Have you checked with them?

(Steve): Pardon me?

Woman: Have you checked with them that they started the recording?

Coordinator: Yes, the recording…

((Crosstalk))

Woman: Okay, thanks. Sorry.

(Steve Metalitz): This is Subgroup A which is looking at the roles, responsibilities and requirements of the OPoC, the Operational Point-of-Contact, in the proposal that was supported by some members of the Whois Task Force. And we're meeting in parallel of course with the other two subgroups for the first three-week period.

And my understanding is that our role is really to solicit and kind of organize the proposals that may come forward to address the issues that we've been assigned to look at.

We're not necessarily supposed to make a recommendation or evaluate the proposals, although I suppose if we are able to do that, that would be useful.

But I think the main idea is to get some proposal, some ideas out on the table, along with the what the other subgroups are doing, so that there can be a discussion by the full group.

That's my understanding, anyway, of what our job would be. And what I hope we could cover today is first of all just making sure that everybody is in agreement on that scope of our work.

Second, I had circulated a few - really just a few questions that may be useful in - for people in preparing proposals. And then of course we need to talk about our logistics and future meetings, and any other organizational questions.

As I understand it, once some of these connectivity problems that have been plaguing us today are cleared up, there will be a mailing list for this Subgroup A. So…

Woman: Absolutely, (Steve). And I do apologize.

(Steve): Well it's beyond your control. And once it's back under control, so we'll have a list and we'll have - we'll know exactly, you know, we'll know who's on it and we'd be able to discuss this amongst ourselves.

And I do encourage people to use the list because although Glen and her colleagues are doing the best they can in terms of the timing of conference calls, I know it can't be convenient for everybody. And the

more we can get done on the list focused on particular proposals and particular questions, you know, the better off we'll be.

So, again, I will just encourage people to do that and to try to keep your postings to that list focused on the issues that are in front of us.

Let me ask first if there are any questions about the assignment, the roles, responsibilities and requirements, the three Rs that we are asked to address.

Okay? Hearing none, I will take that as endorsement that I've suggested we're supposed to solicit, collate proposals in that area, not necessarily evaluate them.

And then I had circulated this list of questions, which help me at least in trying to think about what we would want to - what will be the points and proposals that we would want to bring up.

And I guess, my thinking is that there might be a proposal that addresses some of these questions and leave some of them open. We wouldn't necessarily have to have a proposal that addressed all of the questions, is what I'm suggesting here.

But the questions seem to fall under four main areas. The who question, the what question, the when question, and the how question.

And to put simply, the first question is who is the OPoC? It is a new creature that would be created by the proposal that was considered by the task force.

So we would - it would be in lined to talk about what are the qualifications of this entity, how would this entity identify itself, how would the registrar - what would be relationship between this entity and the registrar or the registrant, would - there have to be some mechanisms for making sure that a registrant obtained the consent of the OPoC before the registrant listed the OPoC in the Whois data and so forth.

So it's really who is this creature and what is its relationship to the other parties here because as I understand the model, the name and contact information of the OPoC would be supplied by the registrant. That's about all we know based on the proposal, and this is what we would need to be flushed out.

The second question is the what question, what issues does the OPoC require to handle. There's a reference to operational matters affecting the domain name. That has been a phrase that's been quite contentious over the life of the task force of variance of that phrase.

And so one area that could be addressed by a proposal is to flush out more specifically in examples or describing more detail what issues the OPoC is supposed to be able to resolve or pass on information in order to resolve, which is the definition of the OPoC from the proposal.

The third is or - called the when issues. I guess when isn't the only question but probably one of the key questions is the timeframe. If you have an OPoC and you know what that OPoC is supposed to handle and someone makes an inquiry to the OPoC, how fast is the OPoC supposed to act and are there time limits within which it must carry out

its role to either resolve matter or pass on information to resolve the matter.

Obviously there could be timeframes and several steps in that process.

And then finally is the how question, how would these responsibilities be enforced, what happens if they're not fulfilled. And I think that's obviously a key question because we could come up with a system that we also think it would work well.

But if there's no mechanism for enforcing it and for doing something in the case in which it's not - people are not carrying out the responsibilities, then we have a problem. We do have a system that looks good on paper but doesn't really work in practice.

So those - I don't know that those exhaust - I'm sure those don't exhaust all the questions that people might have about the OPoC or areas where they might flush out what the OPoC is supposed to do.

But I throw that out as a starting point and just ask if people have other questions about the OPoC that they think would be appropriate for our subgroup to talk about.

Steve DelBianco: (Steve), this is Steve DelBianco. Can I get into queue to give an answer?

(Steve):   Yes, go ahead, Steve.

Anybody else want to get in the queue?

Okay, Steve, go ahead.

Steve DelBianco: The what, when and how question, before we answer those questions, I wanted to ask you what our assumptions should be about who has access to the data?

I realized that's a different subgroup, but Subgroup B, (Mueller's) group is looking at access. But if we assume that access is only law enforcement and not IP attorneys and anti-fraud, elements of companies, then we'll have a different set of answers as to the what, when, and how…

(Steve):   Uh-huh.

Steve DelBianco: …in terms of responsibility.

(Steve):   Okay. I think that's a good question. And I'll provide my answer and I'll let - obviously anybody else can step in.

My understanding is if we're talking about the information that is available - would be available to the general public, everybody would have access to the name of the registrant, the province and country of the registrant, and this contact information on the OPoC -- the OPoC's name, street address, email address, phone number and so forth.

And that this would be publicly available - I think the assumption we should make is it'd be publicly available just as Whois is now.

So at least we're - I think we're talking about what's available to everybody.

I think what the other group is looking at is what are the circumstance - who should get access to more data and under what circumstances, and how would that work. But I think under the OPoC model, what - we're talking about data that's accessible to everybody.

Steve DelBianco: Right. That's helpful. Thank you.

(Steve):   Other comments or additional questions that we ought to be looking at?

Okay. In the case we'll assume that these are at least some of the questions that the subgroup is supposed to be discussing. And I would encourage people as they think through this further to circulate additional questions on…

Man: Excuse me. (Ross Rader) now joined.

(Steve):   Hello?

Ross Rader: Hello, (Steve). It's Ross here.

(Steve):   Hi, Ross.

Ross Rader: Sorry for the interruption.

(Steve):   That's okay.

Okay. Ross, we just finished going through this list of questions that I had circulated about issues to be discussed by the subgroup. And

we're inviting any further questions that people want to propose that would be within our scope.

Ross Rader: Great. I have none, but I'm happy to listen.

(Steve): Okay.

Ross Rader: Thank you.

(Steve): And then let's talk I guess - unless there's other points on that, why don't we talk a little bit about the logistics.

I think that the lifespan of this subgroup is supposed to be three weeks, which leads me to think that presumably the full group will get back together again on the fourth week which is May 23. I'm not 100% sure of that. And maybe Glen or (Maria) know - can correct me if I'm wrong, but I don't know whether we have three weeks counting this meeting or three weeks after this meeting.

Do you know when the full group is supposed to get back together again, (Maria) or Glen?

Glen de Saint Géry: Yes, (Steve). And my understanding, it's three weeks including this meeting. So this has (unintelligible) three weeks.

(Steve): Okay. So that - so we need to finish up whatever we do and I guess report it back to the full group. Let's assume we have to report it back to the full group on May 23.

And so, I guess my suggestion is that we plan to have calls on each of the next two Wednesdays, the 9th and the 16th. As we were discussing earlier in the call, there's no way that the timing is going to be convenient for everyone, but I think there's a - unless there is strong objection, I think we're likely to stay at this timeframe because otherwise if we move others, the other subgroups have to move and it becomes logistically quite complicated.

So, unless there's strong objection, I think we should assume that we will..

((Crosstalk))

(Steve): …meet on the 9th and on the 16th at the same time, 11:00 Eastern and whatever it is, the time zone. And I believe we'll have the same call-in number.

But I think what we need to do between calls is encourage people to circulate proposals that really address any or all of these questions about who is the OPoC, what issues the OPoC to handle, when must the OPoC act and how would the responsibilities be enforced.

And again, I would emphasize that we don't necessarily need a proposal that addresses every one of these questions. We don't have to have a global proposal.

You could have one that just addresses one or two of these questions and then we can, you know, hopefully that would fit together with other proposals.

But that I see - I see that as our job over the next couple of weeks and we'll - we can officially do that if we make good use of the list that will be in place in the next couple of days for our subgroup.

Other - I'd like to open the floor to any comments on what we're supposed to be doing or how we're supposed to do it. And any comments on the timing or logistics.

Steve DelBianco: (Steve), this is Steve DelBianco.

A question would be, are you looking in this first couple of days to solicit independent proposals or do you have one that we should put up as a straw man that we could all then work on?

(Steve):   I don't have one as a straw man. And if anyone does, they would be doing a great service by giving us a starting point.

Steve DelBianco: The Business Constituency did publish comments on the OPoC responsibilities. And I could put those into the mix if you think that would be helpful.

(Steve):   I don't recall exactly what - I mean I'm not sure I've seen that, but I think yes, I would certainly encourage you to put that forward.

Now I'm glad you mentioned that because I also want to make it clear that at this point in the process, we're not necessarily seeking proposals that have been endorsed by a constituency or endorse by a broader group.

Obviously some people on this call represent constituencies, others are independent observers, and I don't think we should really - at this state in the process I just don't think it's realistic for somebody to come forward necessarily with a proposal that's been endorse already by a group.

So we're really looking, brainstorming here. We're looking for ideas and suggestions. And I'm going to assume that everything is put forward by individuals in their individual capacity unless they say otherwise.

Steve DelBianco: (Steven), this is (unintelligible) speaking.

I take advantage of my joining this work at a relatively late stage and after the whole discussion has been taken place within the gNSO.

Just two very simple questions regarding what people had in mind in terms of type of actors and type of procedures when the whole discussion within the working group - oh in the task force was taking place.

For somebody who was arriving at a late stage like I do, when I see the proposals for the OPoC, it is not exactly clear to me what kind of - it's actually your first question, but I'm wondering whether there is a clear understanding of what kind of actor an OPoC would be.

And second question which even more important is would the function of this OPoC be to give the information or to forward the request for comment?

And sorry for the naivety of the question, but it's - if this is arising on this issue, I think it's important that I (get).

(Steve):   Thank you, Bertrand. Those are very good questions. And I would certainly defer if Ross has any comment on it. Ross is one of the principal authors of the OPoC proposal.

Ross Rader: Yeah.

(Steve):   And he's probably in position to answer those.

Ross Rader: The question is do I want to answer the question.

(Steve):   Oh, you have the option not to.

Ross Rader: Let me make a comment first, (Steve).

I'm - and so I'm speaking on this in all of these working groups as a representative (Tcal) not as a counselor or as a member of the registrar committee or anything like that, but not consulted with or not representing anyone else's point of view on this but ours.

(Steve):   Okay.

Ross Rader: It - our position has modified or has evolved quite at least since, you know, this call - since around this time at Portugal. And that we're no longer I would say backing the Operational Point of Contact as a contact point.

And let me be very clear when I say that that we still support the majority of that proposal. But in talking through the various stakeholders in Portugal, we've realized that the - what was initially presumed to be a technically elegant approach to a very, very small problem has turned into a major area of concern for a large number of stakeholders.

And it - at this point, you know, the question I was going to ask you as the chair was whether or not it was within scope to consider whether or not even creating the Operational Point of Contact was appropriate or not, and whether or not simply continuing with administrative and technical contacts wouldn't be more appropriate.

So that's why I would hesitate to answer that question, that Bertrand was asking.

Bertrand: May I maybe reformulate it so that it's easier?

               What was the thinking when the discussion went on the OPoC and what kind of typical type of person? But once again, there's a…

((Crosstalk))

Bertrand: …no obligation to us.

Ross Rader: Certainly. I can - from historical perspective I can answer the question.

               When the - the proposal was first formulated by a group of eight or nine registrars at the Argentine meeting in Mar del Plata. The thinking

at that point was that the administrative and technical contact in a large number of cases performs overlapping function.

And that from a data management perspective it would be more manageable and/or elegant if those contact types were merged into a…

Bertrand: Uh-huh.

Ross Rader: …broader contact that we could call the Operational Point of Contact.

So it was presumed the Operational Point of Contact would assume the responsibilities of both the administrative and technical contacts.

Does that help?

Bertrand: Oh, okay. I think that's better. Thanks.

(Steve):   Okay. Does anybody else in the queue wish to speak?

(Maria):   Yes, (Steve), it's (Maria) here.

Just a request really that if people are going to be putting proposal that they would really try and follow quite closely the template that you set out with the questions of the who, what, when and how.

So, you know, for example with the BC proposal, it will be extremely useful if that was (unintelligible) to actually answer those questions rather than resending something that we've already had in a different format.

And the reason I suggest that is because I think it's going to allow people on this group to make a direct comparison (unintelligible), and also it'll help us to gather (them) all together.

(Steve): Okay. Thank you, (Maria).

Anybody else in the queue?

Ross Rader: I wouldn't mind going back to the queue please.

(Steve): Okay, Ross.

Ross Rader: My turn?

(Steve): Yeah, yeah, go ahead.

Ross Rader: Thank you.

The proposal that I'd like to put on the table for consideration, and I believe it's consistent with our working plan. I can be convinced that it isn't, but I will put it on the table nevertheless, is that we would consider not necessarily simply the Operational Point of Contact but whether or not it's possible to bring forward those administrative and technical contacts and perhaps refine the definition of those contacts and refine the kind of purposed role and scope of those existing mechanisms.

(Steve): Okay.

Well, I guess that raises two questions. One is your question, whether that's within our scope. And the other is you said at the outset that - again speaking from the (Tcal's) perspective…

Ross Rader: Yeah.

(Steve):   …that you still support the majority of the OPoC proposal. So one question that I guess I would raise in response to your point is do we assume that the information that's in Whois about registered name holder remains as it is today, or do we assume that it is reduced as the OPoC proposal would do.

Ross Rader: I think to perhaps better answer the question, what we would - what we're seeking to - I'm looking for a compromised position on this. And in hearing the amount of concern around implementing a new contact type that we would replace existing contact types, I realized that pushing forward with a new contact type at all cost would probably cost us the compromised position.

So I'm fully prepared to withdraw support for creating a new contact type and bringing forward the administrative and technical contacts.

So for the purposes of this working group, we could probably limit the scope of our support to bring forward the OPoC proposal but using the admin and technical contacts.

Steve DelBianco: (Steve), can I ask a question?

(Steve):   Yeah, go ahead. Who's - I actually would ask people to identify themselves too because again there's - in terms of the transcription.

Steve DelBianco: It's Steve DelBianco in (unintelligible).

I think the question is more to you.

You indicated earlier that the - you were surprised by the number of stakeholders who had concerns with this OPoC. And…

((Crosstalk))

Steve DelBianco: …is that what causes you? Is that what causes you to think that maybe we need to redivide the OPoC into its two component parts?

Ross Rader: No. What I was surprised with or perhaps when I started listening to - I'm not sure if it was a new concern or not. But what I had started hearing in Puerto Rico - sorry - in Portugal was that people were very concerned with replacing old with new.

And I'm not particularly tied to replacing old with new, so if I don't care about it and everybody else does, then it's not something that I'm prepared to - it's not a hill that I need to capture. It's not something that I'm prepared to die for.

So if that's the case then what does that - what does - in giving that up, what do we gain in terms of the compromise?

Steve DelBianco: All right. So that - I think it would be better for us not to necessarily divide OPoC back up to do its constituents as admin and technical, but instead take a look at the difference between the OPoC and the registered name holder.

Since the registered name holder could well be the person that we need to reach, ask so many key questions, but we see the OPoC as the gatekeeper to that information.

Because I'm reading the OPoC proposal and if I can just quote the OPoC proposal it says, "The purpose of the Operational Point of Contact is to resolve or to reliably pass on data to resolve, operational issues relating to the domain thing."

Ross Rader: Yup.

Steve DelBianco: And that answer (Bertrone's) question in whether they're going to answer the questions or just pass it on. It's just the proposal as it's written is either/or.

Then it says that any other obligations are basically between the OPoC and the registered name holders. So is that right for us in the e-commerce industry and intellectual property owners to think of the OPoC as the gatekeeper to the registered name holder?

Ross Rader: You know, again, it's not - I'm not going to defend the Operational Point of Contact contact. I don't think believe in it. So in terms of how you should think of it, I think that's really up to you.

I'm proposing that we don't think about it and rather - and rather than try and make new policy that we can't agree on in terms of that particularly contact point that we instead rely on the existing body policy and practice around the administrative and technical contacts.

Certainly, the status quo in that area is I believe - and anybody can correct if I'm wrong in this, but I believe to be much more broadly acceptable than pushing ahead with that Operational Point of Contact type.

So I can't tell you - I can't answer your question as to how you should consider that. It was never intended to be that gatekeeper, but it is being interpreted that way.

(Steve):   Okay. Anybody else in the queue?

(Maria):   (Steve), it's (Maria) here.

(Steve):   Go ahead.

(Maria):   I think - I mean we haven't really returned to the question of whether the - whether (unintelligible) from the OPoC is in scope to this subgroup, and I think that's something that we probably need to be discussed and with the larger group and certainly go back to the initial intent of the gNSO Council when it did pass its revision in this.

I mean I don't really see that the work for this subgroup is not - it does not specifically mention OPoC, but I think we would need to have that (reasonably affirm with this) confirmation that this is an avenue we wish to (unintelligible) and go down.

(Hope):   I'm sorry, this is (Hope). I - (Maria), you're going in and out, so I sort of - it was a broken up - can somebody else recap what she just said?

(Steve):   Yeah, this is (Steve).

I mean I heard (Maria) just say that we might have to go back to the larger group to find out whether what we're proposing or what Ross is proposing would be within scope of this subgroup.

I think (Maria) also made another very important point which is OPoC, that word doesn't appear - that's not a word I guess, that acronym doesn't appear in our - in the statement of the issues we're supposed to look at.

So I guess one question I would have for Ross is whether are you suggesting perhaps that we looking - instead of looking at the roles, responsibilities and requirements of the OPoC, we look at the roles, responsibilities and requirements of the admin and tech contacts? Is that what…

Woman: Excuse me.

((Crosstalk))

Ross Rader: That's my proposal. Yes, (Steve).

(Steve):   Okay.

So, yeah, that's helpful to clarify that because I think you're right that, you know, there's - people are reasonably comfortable with how that admin and tech contact system works now, but I don't think there's ever been - you know, we've sometimes referred to the phrase the "job description." I don't think there's ever really been a very

comprehensive job description of the admin or tech contacts. There's a minimal one in the transfers policy I…

Ross Rader: Right, right.

(Steve):   But…

Ross Rader: You know, I think to the extent that that's unclear or unuseful or needs improvement or refinement, we should be talking about that certainly. But it - I think it's much more comfortable starting point for everyone than saying not only are we going to redefine everything, but we're going to do it with a new set of contacts, right?

You know, so it's just - I think it's a better starting point for us. Absolutely.

Man: But we would still answer the same four questions that (Steve) set out for us…

Man: Yeah.

Man: …whether we're speaking of the OPoC or the admin and technical contacts.

Bertrand: (Steve), this is Bertrand.

May I sort of make a comment that I'm a bit confused at the way the discussion is going.

Once again, I'm arriving from the outside. And having witnessed the discussions and the presentation in Lisbon on the OPoC proposal, then the result of what I understand is a very lengthy process and very dense and almost tense process within the gNSO regarding the endorsement or non-endorsement of the OPoC proposal.

I really understood that the whole working group, including the three subgroups is about going further from the starting point and trying to define the OPoC role and the modalities for accessing non-accessible data, and the distinction between the different categories of actors.

What I'm a bit surprised is that I just got out of the previous conference call where (a first remark) was made that maybe the OPoC was going a bit too far in the direction of protecting the privacy of the commercial interest and then we're arriving at that subgroup.

And if I understand well, and correct me if I'm wrong, the discussion that just took place, it's almost as if the notion of OPoC itself (word) is appearing. And so I'm a bit confused.

(Robin):   I was - this is (Robin). I'm with Bertrand on that. I'm a bit confused too. I thought our - I thought we were pretty clear in what the scope of this subgroup was. And so I'm a little confused how we can change that around at this point.

(Steve):   Anybody else in the queue?

This is (Steve). Yeah, I think one thing that (Maria) said was that it's probably not within our - it's probably not our job to change the - our own assignments since we were assigned by the larger group.

But I was just trying to clarify what (Ross's) suggestion was, which I think is that we basically look at roles, responsibilities and requirements of the admin and tech contacts.

I think it's - I also want to point out and Ross said this right at the outset he's speaking for his company, not for the Registrar Constituency…

Man: Uh-huh.

(Steve):   …necessarily and therefore, you know, I think that has to be born in mind also.

But I do think that if in fact we're not - if we were not to look at, you know, really at OPoC then, yeah, that does kind of fall into question the whole direction of the working group I think.

And it may be that we need to get something more definitive from the constituencies. Not just, you know, the Registrar Constituency but all the constituencies represented in the working group as to what our direction ought to be.

That's just my thought about it, anyway.

And any - or any further comments on that?

Steve DelBianco: This is Steve DelBianco.

I'm with you on that. I think we should proceed to answer the four questions about whatever entity or pair of entities that's going to give us access to information about the registrant.

And we can note when we finish our answer to the four questions, we can note as Ross said that there are still some questions as to whether we should consolidate admin and technical into OPoC, or simply apply the job description to both the admin and technical.

That almost becomes a footnote at the end.

Man: Uh-huh

Steve DelBianco: It doesn't distract us from the (unintelligible).

Man: True. True.

Man: Yeah. And keeping in mind, my only motivation here is to at least start from a position personally where we're exploring what I view as there is a compromised versus there is a difference. And if that's not the will of the group, then that's also fine.

                 You know, if there is consensus that the Operational Point of Contact is achievable, then, you know, you know, I'm happy to continue down that road. I just don't believe that it is.

Bertrand: Hello?

(Steve):   Okay.

Okay, go ahead. Who wants to speak?

Bertrand: No, I was just hearing a blank and I was wondering whether the communication has been…

As I'm speaking - this is Bertrand.

Just one element. The first question I was asking was precisely my interrogation coming from the outside on whether the OPoC was somehow a filter.

The way I understood it broadly was basically that there is a bunch of data that is available in some database somewhere that has been given. It can contain contacts and information about technical contact point and administrative contact points, thousands of other contact points.

My understanding or the question I wanted to clarify was whether the OPoC could be sort of third party filter, some external actor that would be just the intermediary for the backend for transmission of information.

And hence my question of whether this actor would be actually providing the data requested under circumstances, or sending to the people who have the control over this data the request for information in a certain verifiable way.

What I understand here is that it basically in one way or another just the other name for an existing contact that is within the organization

that is holding domain or the person that has been designated on an individual basis by someone.

Is - am I right in thinking that there was some sort of layering in the concept or am I mistaken?

Man: Well I think, Bertrand, in terms of the original formulation of the proposal, it's much more intended to - the Operational Point of Contact was much more intended to function as a - in a matter of seemingly to the way of building superintended (unintelligible), i.e. with no real authority but with capability.

Man: Uh-huh.

Man: It's certainly - I think, (Steve), can probably fill out his view on this who'll be better than I could, but as I understand, he is more looking - or there, you know, there's a counterview that that should be more of a (unintelligible) authority which has kind of jurisdiction or capability to act. That's more mandated and defined than what the capability's basic role would allow for.

Steve DelBianco: Bertrand, this is Steve DelBianco.

Think of it in a very concrete way.

Bertrand: Yeah.

Steve DelBianco: If they'd come aware that (fishing) emails or spam or denials of service attacks is originating from a domain or passing through a

domain, the need I have is for a very quick contact with somebody that could get some answer and remedy the situation.

And when you put it in those contacts, the responsibilities, the authority that this person has have to be evaluated how quickly they can take actions and represent the interest of the registrar.

So, qualification was the first part of the first question that Steve Metalitz proposed under Who i.e. qualification. And that's one of the first things this group is going to have to wrestle with, is the OPoC qualified as an agent - as a legal agent of the registrant, or are they just as you've described a pass-through mechanism.

Bertrand: Uh-huh.

Steve DelBianco: There's completely different ways of looking at it, and they'll have different implication for how quickly we can expect the satisfactory response to an immediate or an urgent problem.

Man: Uh-huh. You know, put some further color on that, Steve. I wouldn't say that those - that either of those are mutually exclusive situations. I think in a - from a practical perspective, oftentimes for instance the technical contact for (Tcal) isn't qualified to act and would have to refer. In other instances, it would be qualified to act directly. But I'm not sure that it can be of - I'm not sure that it's a binary situation.

Bertrand: Uh-huh.

Man: Or should be a binary situation, anyway.

Steve DelBianco: Should we consider having qualifications that have two different levels of responsibility depending upon the urgency of a request? That would take us into a bit of a complex way of answering (Steve's) simple four questions. But do you believe that the way we answer (Steve's) questions is contingent upon the nature of the request?

You know, I mean we're all systems people, right, and we do use case analysis.

Man: Uh-huh.

Steve DelBianco: We would have analyzed this in a matrix. Put these questions there and analyze the kinds of questions you're going to ask (as an) OPoC.

((Crosstalk))

Steve DelBianco: …may have some questions intellectual property, it could be about technical problem, the duplicate IP address, it could be fishing a spam. If we list all those questions, it's possible that we'll come up with the different set of answers to each of (Steve's) questions.

Bertrand: Yeah. So I think I would want to broaden that exercise to, you know, what are the range of questions we would ask of the contact types, you know, regardless whether it's an OPoC or an admin contact, but…

Steve DelBianco: Right.

Bertrand: …you know, I think a fair exercise.

Steve DelBianco: True.

Yeah, I think…

Man: Do you have anything you could start us off with, with a list of the Top 10?

Steve DelBianco: Do I? Oh, I'm not - see I delegate my contact through parties, so I don't know what kind of questions they're going to get.

You know, I would actually reverse the question and say what kind of questions are you asking. In other words, through (unintelligible) prosecution of these various activities, you know, what kind of questions do you need answers to.

When you're looking for a spam or what kind of questions are you asking. Or when you're looking to get information on an IP abuse situation, what kind of questions are you asking, that kind of situation.

Man: (Steve), why don't you take a crack at the IP side of that?

(Steve): Well no, I just wanted to say that this really is one of the questions I listed. This is the second question -- what issues is the OPoC required to handle. And there I think we do want to spell out what are the types of problems that, you know, and looking at the OPoC proposal and whether that person is called the OPoC or something else.

There is a range of issues that are within that party scope and perhaps that are outside that party scope. And I was trying to draw out what our proposals would be on whether it is appropriate to send - go to that person with a question related to a fishing attack or something like that.

Or is it appropriate to go to them with a - for a consumer, for example, to go to them with a problem with non-fulfillment of an order that was placed on a Web site that resolves to a particular demand.

And there's a lot of other examples. I think what we - what would be useful is for us to generate something of a list of what the types of issues are that could potentially fall into that person's lap.

Man:	I think that's a great idea. And Ross is saying that for some of those questions, the OPoC might only be a pass-through. And for some of those questions, we would love the OPoC to be the authoritative answer.

(Steve):	Yeah. Yeah, I think and Bertrand has asked this question a couple of times and I think the answer is both, you know. It's both a layered approach and one where the OPoC could actually act. And I think it may well depend on the type of issue (involved).

Bertrand:	This is Bertrand. Thank you very much for the different comments because it's apparently clarifying a certain number of things.

The range of issues and the kinds of questions that are going to be asked as an OPoC would be a very, very useful exercise in this subgroup because it would actually fit very nicely into…

((Crosstalk))

Bertrand:	…following the discussions we had before where basically the purpose of the request to access some data is a bit missing at the moment.

The point that I see emerging is that from the comment, there are cases where there is a need to take some action in the end on the basis of a technical request, like there is something that is malfunctioning. That's one possibility.

The second one is there's an action that has to be taken on a legal basis, and something has to be stopped or prevented or taken down or whatever.

And the third category is that there has some information that has to be communicated through a third party regarding somebody who was in charge of a domain name or whatever.

Those three different things as what mentioned earlier can be either acted upon by whatever it is called, an OPoC or (unintelligible), or be just to transfer of information.

But I'm wondering whether the three categories like action on a technical basis, action - I mean technical action on a technical basis, technical action on a legal basis, and transfer information back on the owner of the domain or the operator of the server or whatever wouldn't be an interesting categorization.

(Steve):   Yeah, this is (Steve). I think that would be useful to spell out and maybe think about in particular areas which is likeliest to be the case, whether we're asking them to do - OPoC is being asked to do something in response to a technical issue when they're being asked to do something in response to a legal issue, or whether they are being

asked basically to provide the requester with contact information for the registrant.

I assume that's your third category…

Bertrand: Uh-huh. Yes.

(Steve):   …that they're basically saying okay, here's the person that you need to go to.

And I think that would - that probably - in my thinking, that probably would be a useful exercise.

Other comments or does anybody else want to be in the queue?

Okay, let me suggest this. I think we've had - (Ross's) kicked off a discussion that raised a number of interesting issues here.

I think the suggestion that Steve DelBianco may have made is a good one that we could probably just go ahead with the questions that are listed here or some variations on them as Bertrand has perhaps suggested without regard to whether that entity is called the OPoC or is called something else.

I think if we assume that the rest of the OPoC is in place, in other words that some information about the registrant that's not currently made available - that is currently made available is no longer made available, then we still have a question of the other party that - party or parties that are identified in the Whois database -- that's available to the public -- what are they supposed to - who are they supposed to be,

what are they supposed to do, when are they supposed to do it, and what happens if they don't do it.

I think you could answer those questions either as to an OPoC or as to kind of an enhanced admin and technical contact and probably about equally.

So, I think what we're - it strikes me that what we're talking about here remains within scope even if there is, you know, even if (Ross's) viewpoint is in fact reflected by his constituency and therefore we may end up at the end of the day without something called an OPoC.

But I think it's still useful to go through these questions and I think Bertrand has added an additional way of looking at them that could be very useful.

That's just - that's my thinking and I - but I'd welcome anybody else's reaction.

(Steve), this is Adam Scoville. Can I join the queue?

(Steve):   Yes. Go ahead, Adam.

Adam Scoville: I think that it certainly helps to think a little bit outside the box to think whether this would be the admin and technical contacts will be one contact or two.

And I think that from my point of view, and I think that within the sort of scope of this, I think that the point is that we need someone who can deal with these issues. And I'm a little more agnostic about, you know,

whether that's one person for all kinds of issues, different kinds of people for different issues.

Although one thing that arises is that it would seem to me that the people who would act in these roles, it might be a little confusing if you weren't necessarily sure whether this was in your bucket, so to speak, or not, if you are admin versus technical.

Although maybe, you know, it's not a perfect division and it's meant more just so that you have an idea not who's, you know, responsible differently but just that, you know, the technical contact may be a better person in whatever sense that word means to go to on some issues and the admin contact may be a better person to go to on some other issues.

One of the things that I think for, you know, the next couple of calls that this subgroup has that really is a concern that I think really bears more to kind of talk about than it really has had so far is Steve's Question D.

And not to get to sort of legalistic, but I'm - one of my concerns is that no matter responsibilities we give to this person or - that it may be very hard to enforce it because this - and I'm hearing a lot of noise from someone - I don't know if that can be corrected or not.

But, just thinking from a sense of where do these obligations come from, this OPoC has some sort of a relationship whether it's contractual or perhaps if it - if the OPoC is a member of the IT department for corporation, it may be an employment relationship or whatever, but there's some sort of relationship between the OPoC and

the registrant. But there isn't necessarily any relationship between the OPoC and either the registrar or ICANN or, you know, anyone else.

So I'm sort of wondering how we would bring these obligations to bear on the OPoC, and who would then have the power to take action if the OPoC didn't, you know, fulfill it because those are sort of flipsides of the same coin if - as we know for instance, the fact that third parties can take action if there's a trademark disputed by the domain arises in the UDRP contact because of the fact that ICANN has dictated the registrars, you must have these terms in your contract. And one of those terms is that the registrant consents to dispute resolution process.

Without any sort of agreement with the registrar, it makes - very hard that the - hard for the, you know, to have any place where you could set out here's what the OPoC must do. And without that, it may - just may be a meaningless sort of exercise because no one can make them do it.

And, you know, you could imagine a situation where ICANN and the registrar dictated to the registrant that if you are going to use an OPoC or whatever, someone other than you as this contact, you must oblige them to do X, Y, and Z.

The problem is that doesn't really work because if the - if you're in a situation where who you're really trying to get to, the end goal is if you want to get to the registrar - registrant and the OPoC is a means to get to the registrant, but the OPoC doesn't do its job because it was never obliged to do that job, and therefore the registrant is in breach of its

obligation to the registrar that said, you know, if I use an OPoC, I will oblige them to do X, Y, and Z.

Your remedy for breach (unintelligible) to put those contract terms in place, it's against the very person who you're trying to use the OPoC to get to. So you only have a remedy against someone who you can't find in the first place.

And I'm just worried and concerned that whatever the responsibilities are, there is - it could be - there's no actually no way to enforce them to happen. And if we get into a situation where they can put you on enforceable, then where does that leave us?

(Steve):   Thank you, Adam. You raised some very good points there. And if you look at the status quo, the registrant is - the registrar has obligations to ICANN and the registrar also has a contractual relationship with the registrant, but there isn't any direct relationship between the registrant and anybody else.

So…

Adam Scoville: And it's also true.

Man: Yeah…

((Crosstalk))

Adam Scoville: That's a good point that the - that there isn't necessarily a contract between the registrant and the admin or technical contacts. So that's not necessarily unique to the current - to the OPoC proposal, but it's

true that it's a lot less of an issue when you in fact can get a hold of the registrant.

(Steve):   Well that's right. And that's why I'm saying let's assume for the purposes of our subgroup that the information about the registrant that is currently available becomes less available or unavailable. For example the address of the registrant, which under the OPoC proposal would no longer be publicly accessible.

Let's assume that and then let's look at the other information that would be publicly accessible in Whois, what do we expect that person, who do we expect that person to be, what do we expect that person to do, but regardless of which label we put on it.

And we may have to - I mean at some point obviously you do have to confront the question of what the label is, is it still admin intact or is it OPoC or is it something else. But I think we can probably get a lot of these issues out in the table without even resolving that question.

Our time is almost up here, but I'd be - is there anybody else that (wants) to be recognized to respond or to add on to what Adam just talked about or anything else?

Woman: Yeah, this is *.

I agree with Adam that that - the key is, is your D because, you know, I really think that if we have all these other things defined and if it doesn't work and there's no way to enforce it then we're, you know, in a worst situation obviously than we are now.

And that's the key. If we can't - we can set out all these other things, but if we don't really work on D and have some way to enforce it, you know, and have some sort of penalties or something to make sure that it works, then we're just - we might as well just give up now.

So, I think that really is the key D.

(Steve): Okay. D is key.

Woman: D is key.

(Steve): One of our (conclusions).

Woman: (Unintelligible). Yeah.

(Steve): Okay. Well, what I would suggest is this, let's - I would encourage people to use the list. We will have our own subgroup list very shortly. Use - and in the meantime, I guess you could send it to the whole working group list.

But use the list to try to flush out some of these points. You know, we - I think everyone would agree that D is key. Do we have a proposal about how D ought to be handled?

And similarly on these other questions, again, I would emphasize that we are assuming everybody is putting these ideas forward for discussion on an individual basis. They're not binding a constituency or anything else at this point in the process.

And secondly, I would encourage you if - don't wait until you have a global solution. If D is key, put forward your ideas…

((Crosstalk))

(Steve): …without addressing A, B, and C for the moment. So, I think it will help us to get some of these matters out on the table.

Our next call I believe will be at the same time on Wednesday. And I believe it will be the same call-in number. But you will be getting notice, I'm sure, from Glen about that.

And I would encourage - if we have items for discussions, I would encourage people to try to put them forward say by the end of the day on Monday, so that everyone will have a chance to look at them and think about them before our call on Wednesday.

And after we get some of these in there perhaps, you know, we may be able to focus our agenda a little bit more for our next Wednesday. But I would encourage people to start putting some of these ideas forward in written form, and then we can I think move the discussion forward.

Man: So, (Steve), a question on that. Did you require me to - did you need anything further from me around the question of scope? Or is that your action item now?

(Steve): I'd be glad if you wanted to send something.

Man: Okay. (No prob)…

(Steve):   I'd be glad to - we could pass it along to the full group or just whatever seems - whatever is appropriate. I would definitely encourage you to put that in writing too.

Man: Great. No problem.

(Steve):   All right.

                  Anything else that people would like to raise?

                  Okay. Thanks everybody and we'll talk same time next week.

Man: Thank you, Steve.

Woman: Sorry. Just before you go. Who is (Alan)? (Alan), what is your surname?

Adam Scoville: Adam Scoville.

Woman: Oh, (Alan Scoville). Thank you very much indeed.

Adam Scoville: And it's Adam rather than (Alan).

Woman: Oh, it's Adam, A-D-A-M.

Adam Scoville: That's correct.

Woman: Thank you very much, Adam.

(Steve):   Okay.

                Thanks everybody.

((Crosstalk))

Woman: That's all. Thank you. Bye.

(Steve):   Bye.

Man: Bye-bye.

Woman: Bye.

                            END