
ICANN Transcription

Transfer Policy Review PDP WG

Tuesday, 20 December 2022 at 16:00 UTC

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JULIE BISLAND:

All right. Good morning, good afternoon, good evening. Welcome to the Transfer Policy Review PDP working group call taking place on Tuesday the 20th of December 2022. For today's call, we have apologies from Sarah Wyld (RrSG), Zak Muscovitch (BC), Prudence Malinki (RrSG), Eric Rokobauer (RrSG), Crystal Ondo (RrSG). They have formally assigned Rich Brown (RrSG), Arinola Akinyemi (BC), Jothan Frakes (RrSG), Jody Kolker (RrSG), and Essie Musailov (RrSG) as their alternates for this call and for remaining days of absence.

As a reminder, an alternate assignment must be formalized by way of a Google assignment form. The link is available in all meeting invite emails. All members and alternates will be promoted to panelists, observers will remain as an attendee and will have access to view chat only. Alternates not replacing a member should not engage in the chat or use any of the other

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Zoom room functionalities. If you have not already done so, please change your chat selection from host and panelists to everyone in order for all participants to see your chat and so it's captured in the recording.

Statements of Interest must be kept up to date. Does anyone have any updates to share? Please raise your hand or speak up now. I see no hands. Please remember to state your name before speaking for the transcription. Recordings will be posted to the public wiki space shortly after the end of the call.

And as a reminder, those who take part in the ICANN's multistakeholder process are to comply with the expected standards of behavior. Thank you. And over to our chair, Roger Carney. Please begin. Roger.

ROGER CARNEY:

Thanks, Julie. Well, welcome, everyone. And thanks for showing up on the holiday week here for a lot of people. We've got a fairly short agenda here. So I think we can jump into it. Steinar did ask a question in chat, and I'll maybe have Emily jump on now if she wants to walk us through our updates on this. Please go ahead.

EMILY BARABAS:

Hi, Roger. And hi, Steinar, thanks for the question. So as you'll recall, we circulated now some weeks ago a redline that I believe included revisions up to recommendation 9 or 13. So sort of the first half of the recommendations. I'm not recalling exactly how far we got for that draft.

We have ready now an updated redline that includes agreed upon recommendation changes for the remaining recommendations. We were hoping to get some additional input from the small teams and see if any of those inputs needed to be incorporated as well. But our hope is that the next edition of the redline will come out tomorrow with an opportunity for everyone to review and gather feedback from their groups, provide any input in that same spreadsheet. And we would like to get a little bit of input from all of you about how much time you're going to need to review that. So I'll circle back to that in a moment.

That won't be the final version of the redline. Because we still have one more step. Once we have a sort of stabilized set of recommendations, we're going to go back on the staff team and fill in rationales where they need a little bit more flesh, make sure that there's consistency where we said we would go back and make adjustments to some of the report text that's not contained in the recommendations, incorporate any final elements that come out of the small groups that haven't been agreed to at this point, and also include a couple of those items. For example, in public comments, we had comments from SSAC and NCSG that stated that if there were certain topics that the group considered to be out of scope, that they would like those at least explained in the report. So we have homework to do that.

And that final redline, we don't have an exact date for that. It's depends a little bit on how long it takes to get some of these final moving pieces settled. But the goal is to have the next redline with the agreed upon changes tomorrow for all of you.

So I think the question for the group is whether it would be possible to have a deadline of January 9th, it's a Monday, to get that input so that we can review it on our next call, which is on January 10th, or if folks need an additional week to get that input in and complete the review given the holidays in-between. So hopefully that answers the question, Steinar, and I will pause for any input on the timeline of the next redline and review. Thanks.

ROGER CARNEY:

Great, thanks, Emily. Yeah, and on that timeline review, think about it, and we can touch on it before we close to make sure everybody's a good thought on it. But to Emily's point, we're kind of looking at, do we want to schedule anything for the 10th? Or should we just push it off another week? Again, holidays coming up for everyone. So Steinar, please go ahead.

STEINAR GRØTTERØD:

Thank you very much for the updates on this. The background for me asking is that I have kind of signaled to the Consolidated Policy Working Group in At-Large that there will be some sort of document to be distributed for this group within Christmas for Christmas reading, and then we can have a more detailed discussion shortly after the New Year.

I actually think that January 9th, I will prefer to have it a week later to have some sort of feedback, because I think there are some issues that definitely need some sort of discussion and clarification. Let me rephrase to clarification within the At-Large

group. So I hope to have whenever possible, the document. Tomorrow, that will be lovely. Thank you very much.

ROGER CARNEY: Thanks, Steinar. Emily, please go ahead.

EMILY BARABAS: Thanks, Roger. And thanks, Steinar, for the feedback. I see Rick also saying that that seems like a pretty quick turnaround for the 9th. Our falling call is on January 17th. I see that the 16th is a holiday in the US. So perhaps we could either make the deadline the 16th, or we could say the 13th, which is the Friday before. Whichever people prefer. I think my preference is to say the 16th. And for those based in the US, just keep in mind the holiday and if necessary, provide the input prior to the holiday. Thanks.

ROGER CARNEY: Great. Thanks. Yeah, and I think the 16th is some holiday for others, and not for everyone. And just a reminder, I want everybody to take a look at these redlines and make sure that all the questions—as Steinar mentions, everything has been covered and all clarity is done. But recognize this is a fairly good turnaround. But these aren't new things. Really. There's things we've discussed. So I don't think there's anything huge. There's a couple things that we may think is new and need some discussion on. So I think that for the majority, these are just nice updates to what we put out. But yes, I think that looking at the 16th kind of seems to make sense. So I think that's what we'll shoot for. And I agree, Emily, I think let's stay with the 16th. And those that do have

a holiday on that day, just need to recognize and get their work done the Friday before, whenever they're comfortable.

Okay, let's go ahead and shoot for the 16th then on the redline review, and again, that should be out hopefully sometime tomorrow for everyone to start looking at. And as Steinar mentioned, it's just some nice Christmas reading and hopefully it just helps stage early January, not disrupting anybody's actual holiday.

Okay, I don't think we have any other updates. Besides, I guess, as I mentioned, our next meeting will be January 10th. So we'll take a couple of weeks off and then get back into it. So I think that's about it.

Okay, I think we can jump in and we just have two items on the agenda. Two big items here. And it's both from the small teams. The one on the locks, overriding locks possibility and then also on the TTL enforcement on rec 13. So if we can jump to the small teams on the locks, and I don't know if anyone on that team, Owen or Keiron—Owen, please go ahead.

OWEN SMIGELSKI:

Thanks, Roger. So, yeah, we sent this off to the list. Keiron, Zak and I have met a couple of times to discuss some stuff. We obviously discussed the need for a desire for security enhancements along those lines, as well as a consistent experience across registrars, recognize that these locks are not currently required, but they're not prohibited. So there are some, but it's not the same across different registrars and registries.

So we want to go along with the recommendations we had earlier for a consistent 30-day lock. But then also, there's some others who had expressed things that there could be legitimate transfers that might want to happen outside of that, or within that period, and may be unnecessary and not necessarily a security thing.

So we wanted to keep the lock, but also provide for an opt out. And we spent a bunch of time talking about what type of opt out and how that would look and what you could do. And we agreed upon having a lock for what's called—we're just proposing an established customer. And that's somebody who has a relationship with the registrar, who has been doing stuff, not just somebody who appears suddenly. And we didn't want to go down the route of using the RAA verification process to do that, because of some concerns that that's got a very narrow scope about what that applies to.

So we tried to come up with a way that you could have a customer who, for whatever reason, might want to opt out of this, and some guidelines to do that. And so, there's the definition there, which is of an established customer who could have the option to opt out. That would be an established customer is a registrant who has previously received continuing services from a registrar for a period of time of more than 30 days and has an established relationship with the registrar, typically refers to a customer who has a history of regular interactions with the registrar and has demonstrated a willingness to continue receiving services from the registrar in the future.

I tried wordsmithing it a little bit. We were not really very happy. Zak jokingly said during our call that we should ask Chat-GGP to

help us with that proposal, all those open AIs that are so very popular now. I actually took him at his word and fed our working definition into the open AI. And this is actually the revision that it gave us, so I have to give some credit to open AI for helping us wordsmith this. So we're happy to discuss, have some questions, critiques, etc. But that's what we came up with. Thanks.

ROGER CARNEY: Great. Thanks, Owen. Theo, please go ahead.

THEO GEURTS: Yeah, thanks. And this looks pretty good. One question, though, how does this apply to a reseller model? I mean, we don't engage at all with registrants at all. So I'm having an issue with—I don't have a history of regular interactions with registrar when it comes to—

OWEN SMIGELSKI: Yeah, I guess that kind of may show the bias of having two retail registrars on the call. But I think we can certainly put in there, instead of a registrar, we could put in continuing service from a registrars/reseller, or reseller in parentheses. But again, the obligations of the RAA are written for registrars but are also applicable to the resellers via—I don't recall which section right now. So I think we can kind of wordsmith around that. Thanks.

ROGER CARNEY: Thanks, Theo, Thanks, Owen.

OWEN SMIGELSKI: Roger, I see a question from Steinar in the chat of preventing a transfer lock after a material change of registrant. We actually did discuss how this could be consistent with the change of registrant lock. And we decided that we would just kind of leave that for when we discuss that. This could potentially be something that could be used in the future. But we were only narrowly trying to target the lock for the creation of a domain name as well as an inbound transfer and didn't necessarily think about how this would apply to other scenarios. Thanks.

ROGER CARNEY: Great. Thanks, Owen. Okay, any other comments or questions or concerns on this issue? Again, this is the dealing with the post create and post transfer lock and a way to maybe provide an opportunity to opt out of that after the fact. Not necessarily before the fact. Steinar, please go ahead.

STEINAR GRØTTERØD: I have, believe, on behalf of At-Large kind of signaled that we would like to have equal routine and a policy that makes all the processes within the scope equal to all registrars, and this opt out feature may change that a little bit. On the flip side here, I do understand there is a need for this and it might also be seen as a good service for a customer, even though it might be a losing customer. But anyway, I will bring it back to the At-Large for a discussion, and maybe they have some comment in general later on. Thank you. Thank you for the work, by the way.

ROGER CARNEY: Great, thanks, Steinar. Owen, please go ahead.

OWEN SMIGELSKI: Thanks, Roger. Yeah, Steinar, just to sort of respond to that equal experience. That's certainly something that I personally wanted as well too, having worked in Compliance and seeing how people are really kind of confused and things like that. But we did acknowledge that there already is ICANN policy in place with regard to the transfer policy where there are optional things to do, such as providing the opportunity to opt out of the lock that occurs after the change of registrant. So that's already something that's there. And I think a lot of the confusion that came out of that is the frustration from registrants to not be able to opt out and be stuck with a lock after doing the change of registrant, which could really frustrate them if they wanted to transfer a domain name.

So I understand that there's that desire to provide the consistency, but at the same time, there may be a number of reasons why somebody might want to opt out of one of these locks after creation, or inbound transfer.

One that we did discuss a bit was where there are the aftermarket registrars. And for those who may not have as much of an understanding of that, these are commonly referred to as the drop catch registrars. I don't want to use that term as a generic phrase for that because it is a trademark of a certain company.

But what the aftermarket registrars do is they wait for somebody who may want to put a bid on a domain name. And what they do

is after the domain name expires, then it is obtained by this aftermarket registrar. And then it's there. But what the person wants to do then is they might want to transfer it, they don't want to stay at an aftermarket registrar, they may want to transfer it, they may want to sell it, etc. There's a number of things that can happen. And if they're locked in there, that's going to be really frustrating.

And so we want to also to balance the needs of that, which is a sizable portion of the registrar industry out there. So that was kind of why we wanted to make sure that there was an opportunity to have that opt out there. Thanks.

ROGER CARNEY:

Great. Thanks, Owen. Any other comments or questions, and really, concerns on this? Berry, please go ahead.

BERRY COBB:

Thank you, Roger. Just to add to a point that as the group when you're taking this back to your groups, that there's still the topic of change of registrant, that is where that opt out option for a post core change that implements the 60-day restriction or the 60-day lock. And I'd just ask that when your group is considering it, that you also try to think ahead about the working group's discussions and future deliberations around that aspect. As I recall, there were some preliminary discussions—no decisions—about how the post-transfer restriction could be leveraged for possible changes in core. And just to make that point. Thanks.

ROGER CARNEY:

Right. Thanks, Berry. Okay. Rich, if you didn't get your answer there, I think that the thought was that registrar be referred to as registrar reseller, where appropriate for that. I find it somewhat interesting when I was looking at this and thinking about our discussion is that we had back at the time we were just talking about locks, that this falls in line with some of the discussions we had around if there's a way for the registrar and the registrant to agree, that there was some flexibility there.

And it's interesting that this comes down to sort of a definition of how that's established. One of the things I was thinking about when I saw this published was recommendation 19, I think, where we talked about fraud, and now we've increased that to DNS security threat. But we talked about evidence, and I wonder if established customer as defined here loosely by the group, and I'm wondering if that—there has to be evidence, if it's questioned, do we require evidence of this established customer so that a registrar would have to prove X, that yes, they've been here greater than 30 days, and the registrar's providing hosting or providing security or whatever, certs or whatever to the customer as well?

What are people's thoughts on adding—and again, I think Owen said it, Compliance, this looks good, but then how does Compliance say, “Yeah, they were established?” and they would have to be able to query the registrar for some kind of information that says, “Yes, they were established.” And that, obviously, that was agreed upon by the registrar and the registrant to do this. That optional removal of the lock.

So just some thoughts I thought about when I saw this. So, think about that. And again, it seems like if you're setting a definition of established customer, then there would have to be a way to prove that they're an established customer, not just that the registrar said that they were, because then I think you get back into that issue of a rogue registrar being able to, "Oh, yeah, they're established in my terms, so I went ahead and transferred it."

Okay. Thanks to the small group. I think it's interesting. When I look back, I think this took it to the next level of our high-level discussions when we talked about locks. And would there have been a way out? And it has to be somewhat registrar and registrant agreement. And I think this is that next logical step here.

But to the small team, is there a next step for you to take this to a bullet in Rec—What is it? 15, 16, 17? I can't remember now. But is there a next step? So I'm sorry, it's right at the top here, 16 and 70. A next step to consolidate this down and say there's an option to opt out of this or—and I think a definition around when that is, and to me, I don't think it's just meant to be a prior opt out but a, once it's locked, and then they want to transfer it, you can remove the lock, is my thought in this, but maybe I'm not reading what your small group was thinking. But let me go to Owen first, maybe he can answer that real quick.

OWEN SMIGELSKI:

Thanks, Roger. We had thought about it as a you can opt out before this triggers, before you register, before you do that, but I guess I'm taking a big leap here and speaking on behalf of

everybody, but I don't think there would be concern with us opting out about that.

We had discussed how to opt out of this and thought it might be a burden on registrars if you had to have the customer either call or contact a customer support or something like that. And we didn't want this to be a burden on the registrar and a drain on resources. So I think we did anticipate that this could be something that could be a lock that could be removed. So I'd be certainly open to that and I would ask Keiron and Zak who's not here to chime in later, whether or not I'm misinterpreting that. But I think that could be workable as well, too.

ROGER CARNEY:

Great, thanks. I bring it up just because it seems like if you're allowing it at an account level, whatever, however the idea is, that seems to circumvent the whole purpose of these two recommendations. So, it seems like to me it would be more, again, more of a purposeful, one-off kind of thing, not that a customer would want this to be true for everything. But it's on an individual basis, to me anyway, and it just allows that security feature of the lock to still exist. But just my thoughts on it. So, Emily, please go ahead.

EMILY BARABAS:

Thanks, Roger. So just thinking about next steps and what might be helpful for the working group's consideration of this proposal, Roger, as you said, it would be helpful to have perhaps some specific language for what is being proposed and sort fleshes out

some of the implications of that from the small group or even alternatives. For example, when the opt-out can occur.

And also, having a bit of a rationale from the group would be really helpful. So looking at the rationale for recommendations 16 and 17, as they exist today, a big [inaudible] of those recommendations or a big selling point is about the consistency of application across the industry, and also the sort of security benefit of having that uniformity across the industry. And so I think it's important to consider those elements and think about are those selling points still the same selling points of recommendation 16 and 17, if this is incorporated into it? Or do we need to sort of change the rationale for this package of recommendations and focus on other elements to sort of back up what's actually being recommended in terms of changes? So at least from the staff perspective, I think that would really help the group consider this and the implications of it. If the small group is willing to take that on. Thanks.

ROGER CARNEY:

Great. Thanks, Emily. So I think that's a question for the small team to answer. Maybe not on this call. But think about it. What would that next step be to more solidify so that the working group can see some language in the recommendations and can start making some decisions and actually take it back to their stakeholder groups to make sure everything looks okay? Owen, please go ahead.

OWEN SMIGELSKI: Thanks, Roger. So, yeah, I'm certainly—at least me, I don't want speak on behalf of the entire small team—happy to kind of put together some more revised wording for Recs 16 and 17 to integrate this. Not sure about the timing of that, because we're kind of approaching the holiday. Technically, I'm on vacation the rest of this week including today, but still wanted to be here to continue these policy discussions. But I can work with Keiron and Zak and get something—although it probably might not be until the new year or that we'd have something that the working group can consider. Thanks.

ROGER CARNEY: Perfect. Thanks. Okay, any other comments or concerns or questions on this? Holida, please go ahead.

HOLIDA YANIK: Yeah, thank you. I'm still thinking about the challenges that registrars will be having to provide evidences on established customer. I mean, regarding the specific language provided in here. And as you know, we have section [inaudible] of the transfer policy concerning the mandatory 60-day inter-registrar transfer lock that must be placed provided that the registrar may allow the registered name holder to opt out of the 60-day inter-registrar lock.

And I guess we can use this language to somehow adapt it but leave to the registrar to decide to whom they provide such option or not. So the established customer will be some kind of procedure that the registrar applies internally, because I believe

Compliance will have a lot of issues with getting evidences. Thank you.

ROGER CARNEY:

Thanks, Holidia. Yeah. And when I read this, I thought the same thing. I think that we have to somehow come up with some bounds there that, okay, if it is challenged or if they comes up as an issue, the registrar would have to be able to provide documentation. Okay. They were a customer starting three years ago, blah-blah. And again, I think that that's right, I think there needs to be some kind of way to at least establish, if we're saying an established customer is these two or three things, then those two or three things should have to be provided if questioned. Theo, please go ahead.

THEO GEURTS:

Yeah, I'm struggling a little bit with it also, how do you come to that conclusion there? But on the other hand, to me, it sounds also not big of an issue. I mean, when would this come up within an ICANN Compliance process, so to speak? I mean, the only thing that I can imagine are a couple of scenarios. A, you're either going to audit every registrar with a couple of cases for it, then you're going to have some huge problems. But that is something ICANN Compliance is in control of itself.

And the other scenario is where a domain name is stolen, and the chance of that is pretty low, in my opinion. So from that scenario, there wouldn't be much cases. Still, you would still have the same

complexity we are talking about, but the number of issues will be pretty low. Thanks.

ROGER CARNEY: Great. Thanks. Yeah, and I agree, I think that I was thinking along the same lines, it's like, how could this get triggered? And I think you shared a couple that seemed to make sense. So Keiron, please go ahead.

KEIRON TOBIN: Thank you. Yeah, just back to Holida's point, we weren't really concentrating on a change of registrant information, just because I believe that's more for the next section. This was just more on this prior section that we are currently running.

Obviously, we've not really kind of got much scope in regards to that yet. So we just wanted to work with what we had. And we believe that for the Compliance aspect, things such as the 30-day communication, [inaudible] written in there gives Compliance scope to kind of work with the registrar, should they receive a complaint. So hopefully, that will fulfill this section, at least of what has been provided. Thank you.

ROGER CARNEY: Great. Thanks, Keiron. Yeah, I think definitely, the definition can provide—we just have to make sure that the recommendation allows for that information to be—first make sure that it's gathered to begin with and provided—and as Theo mentioned, probably just

in a couple of scenarios, and probably not in a high volume for sure.

So I think that we just have to make sure that we get [inaudible] so that it states that that information is needed. Okay, I think that maybe I'll ask for the small team to [inaudible] an update on this at our next meeting on the 10th. And hopefully, we can get some language from them by then shared on the list as well.

Okay. Let's jump over into our next agenda item, rec 13. Right. The small group on rec 13. I think I'll turn this over to anyone from that team that wants—Keiron, please go ahead.

KEIRON TOBIN:

Sorry, are we able to—from the 10th, are we able to go to the 12th [inaudible] on the 12th? Right. I just worry that if there are any concerns from any other groups, we don't want to kind of just reevaluate this again and again. I'd rather see the feedback from other groups before we just proceed with this meeting.

ROGER CARNEY:

Yeah, I don't think that we'll get any direct feedback prior to that. So I think that coming up with more concrete language and changes is probably going to be needed before we can get that feedback from the group.

KEIRON TOBIN:

Okay, thank you.

ROGER CARNEY: Thanks, Keiron. I will turn this over to anyone from the small team on rec 13 wanting to talk about where we're at on this and any updates to this. Jothan, please go ahead.

JOTHAN FRAKES: I will speak for, I guess, the registrar part of it. We got a chance to meet yesterday. And we came up with wording that, for the most part, follows the straw man. But we did change some of the wording just slightly in order to accommodate both maximum and minimum settings. Part of the discussion had defined where we would establish what a maximum was. And I think part of that was to give the registries and registrars an understanding of what the horizon of a time to live would be for a TAC.

Ultimately, we removed the term maximum that we had thrown around a little bit, and came to just defining that a time to live would be defined as 14 calendar days. Now, I do have an intervention from within the registrars that we might want to change the term calendar days to be 14 days with 336 hours in parentheses. I have these commented, but I didn't suggest the change because I wanted to leave the text as our last discussion represented.

But essentially, the interpretation of 14 calendar days, we were concerned that there might be one registry that uses the calendar day as midnight to midnight in their local time, as opposed to the timestamp of the actual setting of the TAC. So that would be a mild change here and in 13.2. But otherwise, the suggested text, I've not received any negative input from within the registrars related to this.

And for 13.2, the change that was put in place was essentially, we're not saying that the time to live is adjusted by the registrar. Rather, the way that a registrar would shorten that period would be to just set the TAC to null. And if we have an agreement with the registrant as a registrar, we are able to do that, set the TAC to null.

The one comment that we did get about this was that a registrar might put into their terms of service that they can set these to one hour or a shorter period than 14 days and have agreement with the registrant. But I think that's an edge case we probably wouldn't see. It leaves the flexibility for us to have a shorter period of time, if needed, in order to ensure that while a TAC would be in existence, that a higher value name, such as a large corporate name—I'll just arbitrarily pick a company like eBay or Apple—transferring their name from registrar to registrar could be very surgical about coordinating with the gaining and losing registrars and have that TAC only available for a very short period of time.

So we wanted to make sure there was room for that for some of the higher value corporate names. Again, that's the input so far, I think we had a good discussion about a variety of parameters related to recommendation 13. And the registries and registrars worked very well. We also had John from I want to say the ISP. Hopefully I'm representing that correctly. Anyway, I see Rick's hand up. So I will pass the baton to you, Rick.

ROGER CARNEY: Thanks, Jothan. Rick, go ahead.

RICK WILHELM:

Yeah, the only thing I would offer is that as a group, we just missed the notion of calendar days. It shouldn't have said calendar days, probably from the beginning, it should have just said days because somewhere in our whole policy, we don't say calendar days ever, I think. So I think that's the macro thing. That's probably been a longstanding bug in the document from the beginning. Because I don't think anywhere in this document do we use the term calendar days. We just always say days. So that's probably just a bug that we've had in there from the beginning. Thanks.

One more thing, Roger. We did have a discussion about this notion of possibly specifying it further in terms of number of hours. And Galvin and I objected strongly to that, because it would introduce inconsistency in the way that time periods are specified in a policy, not only here but everywhere else. Nowhere else, even the registration period, are time periods expressed in terms of hours. So there's no reason that time should be expressed in terms of hours in this one spot in anybody's documents. So that's why it should just say days here and not go into that specificity. Thanks.

ROGER CARNEY:

Great. Thanks, Rick. And I think that obviously, the calendar days is something I think everybody's tried to move away from, stating, as it does cause some discrepancies among people. Obviously there's reasons for it. But to your point, Rick, on specifying hours, I do think we call that out specifically on our five-day window. I

thought we were adding five days, as Jothan mentioned, [inaudible] on 120 hours, or maybe [inaudible] days and just went to 120 hours, I don't remember. But I think obviously, the reason is the precision, avoid as much possible confusion or discrepancy as possible. So, Theo, please go ahead.

THEO GEURTS:

Yeah, I think from an implementation point of view, ours is very much easier. At least nobody has to go do whatever and go figure out what a calendar day is or what a business day is. People usually know what an hour is. So that is much cleaner for a developer to implement.

And again, as you mentioned, we already are using it somewhere further, or earlier in the policy in the five-day period. So that's one thing. But first of all, thanks to Rick and Jothan for doing all the work and the rest of the small team. This is a big improvement from all the different versions that I've seen earlier on. And I understand the reasoning behind a 13.2. Except I think that's not the greatest argument in the world. I mean, if a domain name like amazon.com or apple.com wants to do a position transfer, they can do that within the 14 days, like they all agree is going to be done in day one. And so they can already do that surgical precision there, in my opinion.

And there's a couple of issues. And I'm going to dance around a little bit because I need to digest this a little bit more. The transfer process is a very delicate process with a huge operational impact. So you can envision all the different scenarios that are going to be happening there. That's why the change of registrant policy was

such a dreadful policy because it implemented a ton of new issues that nobody ever figured out beforehand.

So the registrar of record may set a TAC to null. And that is defined by the agreement by the registrar of record any RNH. I don't like that a lot. Because there could be situations that we need to nullify the TAC for whatever reasons. Breach. God knows what. Technical system, APIs going haywire for some reason, can happen at a registrar level, can happen at a reseller level.

These things are not 100%, they don't have an uptime of 100% and incidents happen all the time. So you want to have some flexibility there to set that—nullify the TAC for a bunch of reasons there that are not dependent on an agreement by the registrar of record and the RNH.

Furthermore, we cannot really predict what registrars will put in their agreements. We talk about like an edge case, I was actually the one who made that comment. And at the time, then I thought it about an edge case. But thinking back and mulling it a little bit over, there's so many registrars, we don't know what they are doing and how we are going to implement this. I mean, we had a little discussion in this working group about a certain registrar who made sure that only the admin contacts could transfer a domain name. So you will have those edge cases. And that is going to be problematic. For the rest, big step forward. I'm happy with it. Thanks.

ROGER CARNEY: Great. Thanks. Any other comments or questions on this? Jothan, please go ahead.

JOTHAN FRAKES: Yeah, so the only other comment on 13.2 is that, yes, I gave an example. But it's not necessarily the exhaustive list of examples for why the registrar of record having the ability to set the TAC to null would be an important thing to preserve. And so I also want to extend thank you to the small team on working together on this, as well as the registrar and registry stakeholder groups on their inputs and working on this collaboratively. Thank you.

ROGER CARNEY: Great. Thanks, Jothan. Rick, please go ahead.

RICK WILHELM: Good point. Thanks for the comment there, Theo, about the reasoning there at the end of 13.2. We might think about, rather than specifying reasons here in 13.2 about reasons why the registrar of record may set a previously provisioned TAC to null, we might think about referencing other work or other sections in the policy where we specify reasons why the registrar may reject the transfer.

Because the effect of the sponsoring registrar setting or may refuse to give out a TAC, because the reasons why—when a registrar sets a TAC to null, it essentially prevents the previously issued TAC from being usable. And so it's as though the TAC itself was never issued. And so rather than trying to make up new

reasons why the registrar may set the TAC to null in 13.2, I would suggest that we try to refer to other parts of the documents where we have already agreed why the registrar of record may refuse to set a TAC.

I don't know what those are. This is a thing where I wish that Sarah was on the call because I think that she retains encyclopedic knowledge of this in a way that is almost disturbing but certainly admirable. And she has a better memory than I do by far. So maybe we suggest that as an area to explore, because I don't think we want to get into here a new set of reasons why the registrar of record may set the TAC to null. As Jothan noted, the ones that we scribbled down here are an example and was not meant to unnecessarily limit this. Thank you.

ROGER CARNEY: Thanks. Theo, please go ahead.

THEO GEURTS: I think that's a very good suggestion for Rick. Basically, there are tons of reasons why you want to set a TAC to null, but the only reason you don't want to set a TAC to null is to put in barriers that a transfer cannot happen. You just want to make sure that a transfer can happen under the normal policy circumstances. I mean, we must provide a TAC and we can NACK the TAC or not provide the TAC under a certain set of points that we already set out in the policy. Registrar may not send a TAC if this and this and this is happening. Okay, so fraud, UDRP, etc.

Those are the regular stuff that makes sense that you want to nullify a TAC for whatever reason. So you just want to make sure that you are not creating a policy where registrars can game it and sort of create barriers or obstructions and frustrate the registrants. I think that's basically what everybody wants to hear. Thanks.

ROGER CARNEY: Great. Thanks. Maybe I can get this from any of the small team members. But just want to make sure that the small team is done with this, that the small team agreed to this language. Again, the little things on the calendar days, sounded like everybody was on board with anyway. But just wanted to make sure that the small team feels like they're done with this. And this is an agreed path here from the small team. Jothan, please go ahead.

JOTHAN FRAKES: Yeah. So I think with the change to at least remove the term calendar from 13.1 and 13.2, I think we have agreement from the registries and registrars about that. Would you say that's true, Rick?

ROGER CARNEY: Right, please. Go ahead.

RICK WILHELM: Yeah, we're fine with that. I think that regarding the thing about the hours, we would like to take that under advisement. I mean, the registries made a pretty big movement here to fundamentally

come off of our position that we were objecting to this. And so we still have a lot of—those concerns just didn't evaporate. But we look at this as the best possible outcome.

We're kind of apprehensive about this thing where it goes to hours, because that raises the compliance bar even more for us. So we would appreciate it if the registrars would not turn up the compliance volume even more on us since we've moved a lot on this thing and basically withdrawn our objection. And so now going to change this to hours would even ramp it up farther from where it was, I would offer.

So I don't think that we crack this open trying to raise the policy obligation even higher on the registries than it was when we started, which is what it would be if now the obligation turned into 368 hours or whatever the math turned out to be. So that seems to be sort of a little bit devoid of fairness since this one even got cracked open because we were objecting and we basically withdrew our objection.

I do think that the language we're ending up here is better for the discussion. And it's more refined. And after we get these suggestions pulled in on 13.2 about the reasons why the registrar may, I think we're going to come up with something better. That's my comment on the hours. Hope that helps. Thanks.

ROGER CARNEY:

Great. Thanks, Rick. Jothan.

JOTHAN FRAKES: Rick, I totally see that. And we're so grateful to the registries for getting us right back to where we started on the wording on this. But the piece here is the centralized enforcement was a real benefit, that the registries would be essentially enforcing this to reduce the diversity of implementation we might have seen with the registrars enforcing it.

And the place to make that even better as a standardization is to eliminate the possibility of registry provider A using midnight local time or some other definition of day. And another using the actual timestamp of the registration. It's pedantic. It's my red stapler topic. But I'm not alone in the registrars in having that as a red stapler topic about being precise about this. Because that compliance issue is going to come up where the ambiguity gets interpreted by the registrant as they didn't get enough time or there was too much time that that TAC was available.

And those may be edge cases. I realize we may be in a situation of edge cases. But it's really more for the implementation, that one set of code at a registrars that works on registry A should in theory function in a predictable manner and not need any exceptions written for addressing that disparity at registry B. Thank you.

ROGER CARNEY: Thanks, Jothan. Theo, please go ahead.

THEO GEURTS: Yeah, thanks. So Rick, again, thanks to the registries that you moved your position because what we originally had in the policy, that was very bad. I mean, we would have been looking at an

operational disaster there if you guys wouldn't have changed your position. For all I've known, we might not even had a working viable TAC system without the change of position, because it was looking really bleak in my opinion.

Again, thanks for changing the position. Really great. We can move forward with it. But on the hour thing, and maybe I'm learning something new here, but you mentioned that it could lead to an increase in ICANN compliance issues. That's new to me. Maybe you can elaborate on that a little bit more, where the issue is. Thanks.

ROGER CARNEY:

Great, thanks, Theo. Yeah, and one thing, when we go back and look at when we talked about this language originally—I don't think it was always 14 calendar days. Just because I think the issue is when policy state business days and calendar days, and days, I think you have to be careful. If you say 14 business days, that's obviously somewhat squishy depending on the business that's looking at it. They may have a different set of days than others. Calendar days seems fairly straightforward. I think everybody knows what a calendar day is. If you go to days, does that say the same thing? Or does that possibly introduce a discrepancy? “Well, that means I can do business days, right? Because it just says days, not an actual timeframe.”

And it kind of goes along with the idea of the hours being different. And again, maybe more precise, but I understand where the registry may have an issue with restricting that even further than what they've agreed to here. So I just throw that out there as if we

remove calendar days to go to days, does that create a possible confusion spot or differential spot? Can people interpret that differently? To me, I don't know how you interpret calendar days different, but maybe you can. So, Emily, please go ahead.

EMILY BARABAS:

Thanks, Roger. So during this discussion, I was just looking back to some of the discussions that happened on this recommendation previously. And scrolling up in the same document, the working group did discuss using calendar days in combination with hours, 366 hours. And that there was agreement at the time that this was discussed, to include both a specified number of calendar days and hours. So I just wanted to make sure that we put a pin in that and revisited it because that is, of course, relevant to the conversation happening here. And I believe in the latest draft of the redline, we included that recommendation or that adjustment based on the agreement, which of course can be reversed, but I wanted to throw that out. Thanks.

ROGER CARNEY:

Thanks, Emily. Yeah, and I remember that coming up, because when I first saw it, it was like, okay, 14 days is not 366 hours, but—and I think that the hours came up as trying to be more precise, and trying to align it to our TAC provision window, which I believe says five days or 120 hours, not or, but five days (120 hours.)

So I think that that was the goal when that hour got added here. And again, to me, when I look at—I think calendar day is more

precise than days, and definitely more precise than business days. Again, I think that the hours is that next step of even being more precise, but I think that our original language always said 14 calendar days and [I don't know that] we have to take it to the extreme of 336 hours. But if there's support for it, I think that it's a good idea because it just helps be more specific.

But again, our original language is 14 calendar days, and I'm good with that. And again, I think it's more precise than just saying days. But, Rick, please go ahead.

RICK WILHELM:

Thanks, Roger. So my issue here is really about the consistency of specifications of times in around all this stuff. So if we're going to go and talk about specifying a time that the registries are going to be held to, and that one's going to be specified in terms of hours, then there are other times in here that the registrars are going to be held to. And so let's go through with a brush across the whole thing and specify all those in terms of hours.

But I've got a bit of an issue. Right now, I think, to my knowledge, this is the only deadline in here that the registries are responsible for. And we're getting very thrilled about providing this kind of specificity to the one where the registries are talking about, and we're all excited about consistency and all that stuff. But yet where there's a registrar time, there's nobody talking about consistency and what the registrants are going to face in the market and things like that. Because as it's noted, code-wise, it will be in hours anyway. As Theo knows, code-wise, it will be in second. But what

I'm looking for is consistency across the policy. Because the code is not really the issue here. So that's the point. Thank you.

ROGER CARNEY:

Great, thanks. Yeah, and I was looking at that a similar way. And in today's transfer policy, the TAC provision language says five days, but our recommendation 12 is recommended that that be changed to 120 hours. So that it is very specific that the registrar has to execute that within 120 hours. And again, [inaudible] the specificity out of what is five days. So just my comment on that. But Jothan, please go ahead.

JOTHAN FRAKES:

Thank you. So for us as registrars, we're the ones that are going to get the call from the registrant in the majority of cases. So the ability to have this as predictable as possible is there. I know that we have to face this when we're looking at whether a domain can transfer based off of what the renewal period is. For example, a domain name can't transfer if it would extend the domain's life beyond the 10-year maximum. And so the registry is doing some form of calculations based off of a timestamp with respect to a domain that has nine plus years of registration term on it. So we know that there is some sort of logic there that could probably be applied, because it's already in place for calculating those timestamps. And so I guess we as registrars were not anticipating this to be a heavy lift for the registries. But I do appreciate what's being said about being precise.

Emily found the language, I think, where we're defining 120 hours in place of five calendar days. So we would want to see the hours added here based off of that, and definitely appreciate that policy and enforcement—hopefully, it's no more than an error message in the SRS as an EPP response. But there may be policy implications. It's, I guess, it's worth, if we want to walk that dog, we can do that. Thank you.

ROGER CARNEY:

Great. Thanks, Jothan. And again, Rick kind of said it, but I think the goal here is obviously to make the policy consistent and use the consistent terminology throughout it. So if we're using calendar days, let's stay with calendar days. If we're using a specified set of hours, or—I don't think we have anything in minutes, but if we're being that specific about it, let's be consistent across the board. And again, to me, the more specificity is better for not just the systems themselves, but for anyone using it, and especially even for compliance to know that specific number.

Yes, and Rick's comment there, I think all the parties need to be treated equally here. Okay, any other comments on this? Again, I it sounds like the small team is set on this language that we're seeing in front of us here on 13.1 and 13.2. So I think that if they're good on that, I think staff needs—the last thing I heard was some rationale behind it, as long as it got to a solid spot. There are a few changes that we're making from what we publish. So, Emily, please go ahead.

EMILY BARABAS:

Thanks, Roger. And sorry to be slow, if I'm not fully following. So it sounds like the small group—I guess we just want clarity on where the small group has landed and whether, in general, the group is supportive enough of this that we want to incorporate it in the next draft that we're publishing tomorrow, or whether the small group is still working through some last issues around calendar days and hours and possibly other items. So I guess that's one question.

And then I think our second question is, is the small group up to take on the task of looking at the rationales provided in the public comments and seeing which they agree with and which they don't so that we can kind of convene on a rationale that can be used to support these recommendations specifically around this question in the initial report around who does the enforcement and if it is indeed the registries or the registry that will do the enforcement? Why has the small group and the working group as a whole settled on that agreement?

So I think the meat of that already exists in the public comments, but of course, we want to make sure that the report reflects only the items that the working group actually agrees with. Thanks.

ROGER CARNEY:

Great. Thanks, Emily. So again, from what I heard is 13.1 and 13.2 here in the green box with the redlines and updates to it is what the small team has come to, and they can correct me if I'm wrong, but I think these updates go into the redline tomorrow so that everybody has it and is finalized.

And again, to Rick's point, he doesn't agree with the 336 hours. So I would say that that doesn't go into the redline. But I think that that's what needs to be commented on. But I think this is our language that we're putting into our redline, is what we have. And anybody from the small team can correct me, but this is what we're going to put in and this is what's going to go out to everybody. This is what's going to be taken to all the different stakeholder groups for confirmation. Rick, please go ahead.

RICK WILHELM:

Thanks. Yeah, that sounds right. I think it's unfortunate we don't have the ability to do a quick amendment to 13.2 to reference another section regarding the discussion about the reasons that the registrar of record may set the TAC to null and incorporating those other thing—because I think that the previous discussion that we had that was initiated by Theo where he pointed out that there are other reasons other than the one that was listed there at the bottom of the screen, I think that's important feedback to incorporate.

I don't know how to do that quickly in time for the thing to go out because I'm not familiar enough with the spot where those reasons why the registrar record may refuse to send a TAC. Because I think that that's an area that's ripe for improvement in 13.2, because I think Theo's point there was a very good one. But I don't know what to do about that administratively. Thank you.

ROGER CARNEY: Great. Thanks, Rick. And I think that we're covered there, because our other recommendations specifically make those call outs. I don't think that it needs to be called out here or even referenced here. The other recommendations in the policy will state what those other reasons are allowed and when they're allowed. So I don't think that we need to drill into this as I think the rest of the policy is already handling that. Okay, so I think we are good on this as well. Let me know, specifically staff, if they're good with what they need to do for our redline. Emily, please go ahead.

EMILY BARABAS: Thanks, Roger. I'm just going to ask one more question. So we're removing the prior agreement about the hours, at least for the moment, perhaps putting a comment in that this is still something for people to consider using the text as it's presented here in the straw man. And it sounds like the small group is working on the rationale to provide ideally for our next call.

ROGER CARNEY: Thanks, Emily. I think that that's right. And I think that now that the small team has the language that they're working with, they can put in their rationale that supports that. And again, I don't think that a lot of change here from our initial recommendation, but there are some, and we should definitely note those for the rationale.

And again, if we look at the public comments on this, and obviously, there was specific call out for the enforcement here, it definitely supports the comments that we received back on the

issue. So I think it's great. But we definitely can add in rationale for these. And I'd look for the small team to do that.

And again, is our next call too soon? I'll let the small team speak to if they think they can get rationale out before so that we can discuss it on January 10th. Okay, so we'll look forward to that from the small team then, rationale that we can talk about on January 10th.

Okay, I think that we are at the end of our agenda. Any other business. Anything else that we need to bring up besides, hopefully everyone has a great holiday and a great break. We'll take a few weeks off before we get back to our work on January 10th. Okay, if there's nothing else, then we will conclude 15 minutes early and give everybody 15 minutes back. Okay, thanks, everyone. Have great holidays.

[END OF TRANSCRIPTION]