

**Inter-Registrar Transfer Policy Part B PDP
Transcription
Tuesday 23 November 2010 at 15:00 UTC**

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Participants on the Call:

Paul Diaz - Registrar SG
Robert Mountain - Registrar SG
Simonetta Batteiger - Registrar SG
Mikey O'Connor – CBUC
James Bladel - Registrar SG
Berry Cobb - CBUC
Barbara Steele - RySG
Chris Chaplow – CBUC
Anil George – IPC
Kevin Erdman – IPC
Matt Serlin – RrSG

Staff:

Marika Konings
Gisella Gruber-White

Apologies:

Michele Neylon – RrSG Chair
Baudoin Schombe - At-Large
Oliver Hope - RrSG
Eric Brown – RY (all Tuesday calls)

Coordinator: Thank you. The recordings have been started. Please go ahead.

Gisella Gruber-White: Thank you. Good morning, good afternoon to everyone on today's IRTP call on Tuesday, the 23rd of November. We have James Bladel, Mikey O'Connor, Kevin Erdman, Berry Cobb, Simonetta Batteiger, Matt Serlin, Bob

Mountain, Chris Chaplow, Paul Diaz, Anel George. From staff we have Marika Konings and myself Gisella Gruber-White.

Apologies today noted from Barbara Steele, Michele Nelon, Oliver Hope, and Baudouin Schombe.

If I could please also just remind everyone to state their names when speaking for transcript purposes. Thank you. Over to you James.

James Bladel: Thank you and good morning - good day everyone to today's IRTP call for November 23, and I'm James. Michele has asked me to cover for him for this meeting, as well, and hopefully that's acceptable to everyone.

I - before we dive into matters of substance, I wanted to give everyone the opportunity to notify the group whether they had any changes to their Statement of Interest or their Declaration of Interest, so I'll give folks, say, going once, going twice on that. If there are no hands in the queue, we'll move on.

Okay, so Marika has posted the agenda for today's call in the Adobe Chat Window for those of you who are able to access Adobe.

We had some discussions this week and this morning relative to planning out the work between now and Cartagena. I think the first order of business would be to establish that this group is planning to have a meeting next week - next Tuesday, one week from today.

And hopefully that will not significantly impact travel time. I think most folks are departing for Cartagena later next week but I think we could - based on what remains to be completed, I think that we still have quite a bit of work to do and could really use that time.

So can we just maybe poll the group? Does everyone feel like they could make a call next week?

Chris Chaplow: Chris here. I don't think I can. I'm - I am actually traveling then.

James Bladel: Okay.

Matt Serlin: Yeah, James, I'm in the same boat. This is Matt. I'll be traveling ahead of Cartagena on Tuesday so I won't be in the office.

James Bladel: Okay. Thanks Matt. So we have a couple of folks who won't be able to make it and I see four, including myself, four checkmarks in the Adobe that folks that will be able to make it.

So, you know, I think we've got quite a bit to cover so - before our session in Cartagena, so we will probably push through with a meeting next week. I just really think that we should take advantage of the fact that this group meets early in the week and see if we can squeeze another session in before South America.

Okay. So the first item on the agenda is, and it's been posted now into the Adobe Window, is a draft work plan with milestones and deliverables that was adopted by - I think it was adopted by Bob, Mikey and Michele and Marika. And I apologize if I left someone off that list.

So what we'd like to do is maybe spend 15 minutes going over the items on this work plan and make sure that everything is approved by the group and then we can proceed to laying out who should be - you know, we put out a call for volunteers to take ownership of different subtasks and then have those folks drive those tasks to conclusion according to the timeline here.

So Marika or perhaps Bob, whoever is most appropriate, would you like to walk us through this work plan?

Bob Mountain: Yeah. This is Bob. Marika, would you like me to talk to it?

Marika Konings: Yes, please go ahead.

Bob Mountain: Okay. So I think, you know, just - sorry, this is a team effort. A lot of input from Mikey, Marika and Michele went into this, as well. I was sort of the collator more than anything.

But the thing we did is we - when we went through the date as to when the delivery of final report is and then worked back from there. It was amazing at how much has to be done between now and then. And we were actually really scrambling to try and compress things because I think to have a comfortable interval to deliver some of these things, which is not possible if we're going to have the final reports submitted by the 21st of February, which is when it would need to be done, to have it, you know - that's the deadline for the San Francisco meeting.

So the keys on this were to, first of all, today approve the project plan or very close to today so that we can then move forward, finalize the agenda for Cartagena by the end of this week and then at Cartagena, you know, have a detailed agenda which is going to enable us to make the best use of the 90 minutes that we have.

You know, sort of some suggested bullets were included in the project plan that you all received, but I think these were actually penned by Mikey and I thought it was very good that, you know, essentially using the time to review the input and finding so far identify the areas of consensus so we can nail those down and put them aside, and then use the balance of the time to work through the areas that where we don't have consensus; so if there are areas of disagreement, which certainly on eTRP there are a few.

Let's just use the face time to hammer them through.

Coming out of Cartagena, we then, you know, have a couple of weeks given the holiday time to create a first draft, then the following - by the following week assemble a final report draft.

Then the public comment round we give ourselves the public comment round and then the final report candidate and then give ourselves a couple of weeks after that to collect and review the final comments. I think Marika's input was that we would need extra time there. So you might see that we compressed somewhere else to give ourselves that couple of weeks to do that.

That gives us then the final report revisions on the 15th of February and delivery on the 21st. So even though San Francisco in March sounded like a long time, when you look at the schedule, it is fairly compressed and I think we're going to have to hustle to get everything done.

The - this project plan really needs to be replicated across five different items. That's where it really starts to get tricky and that we have the five charter questions that all need to be addressed. I guess the - you know, one of the decisions we need to make is do we go full out across all five and try and work through the above project plan across each one of the five or do we prioritize and focus on a smaller number and just try and get them done.

So that's kind of where we came out on the project plan and the timeline of deliverables for - to get things ready for San Francisco. So any questions?

James Bladel: Thanks Bob. This is James. I do have one question and I think we may have discussed it last week and I'm just being a little dense here, but is it required by the PDP process to put the draft final report out for comments and then incorporate those comments into the final, final report or - I guess I'm just not clear.

Some of the working groups I've been with have just gone from initial report, received comments and then put out a final report, but they didn't modify the final report based on comments received.

Marika, no need to raise your hand. Looking for your expertise on this.

Marika Konings: Yeah, this is Marika. There's no requirements to put out a draft on a report for comment, but what we discussed in the previous meeting I said it looks like there might be quite some changes to the preliminary recommendations that were in an initial report compared to what might go into the final report.

It might be recommendable to put those recommendations out for another round of public comments to make sure that, you know, people aren't caught off guard or are surprised because there are issues that they might not have seen before.

So I think there are some flexibilities there maybe to move that up if indeed the group first focuses on the language for the recommendations. Those could go out separately. They don't necessarily need to be part of the report because we can continue working on our report.

Because what the report actually does is just capture in the discussions we've had to date and that part of these already reflected I think in the public comment review tool and already some changes that are suggested based on discussions we've had.

So we could link, for example, (intention) public comment forums to the draft final report so people can look there what they are doing but I don't think it's a requirement that we already have a complete final draft before we launch public comment if before that time we already have a list of draft recommendations ready.

But again, it's a group decision, but I would strongly recommend if the group sees that, the recommendations they would like to go with in the final reports, differ significantly from those that were included in the initial report that those are put out for another round of public comments.

James Bladel: Okay, thank you Marika. Understood and I think that if we are anticipating to get to changes to our recommendations from the initial that we should do that and I think that this plan allows us to do that and hit our target date.

Any other questions or concerns about this roadmap from the group? I see I got a queue here, so I'll go with Paul first.

Paul Diaz: Thanks James. It's Paul. Yeah, I appreciate the effort that went into putting this timeline together. You know, I will work very hard with colleagues in the workgroup to get it done.

Do note, though, that it is very ambitious given the pace of policy work to date, you know, and it is what it is. But to that end, what I would suggest that the group do is whoever our liaison is to the Council, I know another group or perhaps it was this done if it's Tim, Tim Ruiz, whoever the liaison is that he or she be immediately advised that the working group has developed this timeline, that we are going to work diligently to get it done, but we recognize we do still have a bit of work.

And it's a pretty aggressive timeline so that the council should be, you know, apprised that we're going to make every effort to have it on time for San Francisco, but more time may be necessary. It's just a formality. Let's not forget to do that. I guess that's my point.

And that needs to be communicated back to Michele because I think historically it's the Chair who tells the liaison and then gets it communicated to the Council.

Thanks.

James Bladel: Thanks Paul. Good point. And I should mention that possibly due to Michele's travel and most likely due to the fact that I work very closely with our Council liaison, I have been keeping him in the loop as far as the development of this work plan, so he is expecting it once it's finalized by this group.

We can - now I can take it over to him copying Michele, of course, and make sure that he's advised and he's taking all that to Council.

Next in the queue is Mikey.

Mikey O'Connor: Thanks James. It's Mikey. You know, I'm looking at this and I think I'm with Paul. Now that I look at it all on one page. I just really wonder whether we can do this. I mean this is awfully tight.

I thought though - wasn't there correspondence between Tim and the Council where he gave the Council a heads up that we didn't think we were going to make it to San Francisco or did I just hallucinate that?

Anyway, I - I don't know. I guess my reaction is wow, this is awfully tight. That's all.

James Bladel: Thanks Mikey. I agree. It's very ambitious, as Paul mentioned. I would even so far as to say it's aggressive.

But, you know, I think just my own personal opinion and, you know, Michele certainly may have other thoughts is that better to lay out an aggressive plan and miss it by a couple of weeks on the tail end than not lay out an aggressive plan at all, I guess.

I think I'd rather, you know - my preference would be to put a stick in the ground and, you know, aim for it and, you know, see where we're at and

measure as we go along the way and see if we miss it a little bit then that's probably a better outcome than if ten is the - acknowledging you're going to miss it at the outset and then meandering towards, you know, wherever the Asia meeting is going to be, so...

But that's just my preference. I understand. I think you and Paul hit it on the head with saying this is going to be very tight.

Chris and Bob are in the queue, but I think Marika may want to weigh in on this.

Marika Konings: Yeah. This is Marika. I think I agree it's a very aggressive plan and, you know, probably less meetings there than we would have hoped, but I think part of being able to finalize or, you know, make sure that we can agree with this is depends at all on the feedback received on the draft recommendation as they currently stand.

I think it might help, and Berry made a good suggestion, and I think we discussed this one on a previous call, it might be ideal to do a small poll on the draft recommendations as is before the Cartagena meeting basically, you know, putting the language in a poll basically saying do you agree, yes, no, maybe if you would change days or I have an alternative suggestion which would really help, you know, get input from all the working group members of where everyone sits.

And, you know, maybe based on the poll it turns out that on, you know, a number of the charter questions we actually don't need to go through all these steps because we have general agreement on the language that is or just some small tweaks.

And maybe it's just, you know, the eTRP that is the big chunk of work where everyone can then focus on which makes it more likely maybe to meet all the deadlines.

So, you know, my proposal would be to - you know, to use that poll in preparation for the Cartagena meeting, so at the Cartagena meeting you would really have a sense of where the group sits on the different issues and different recommendations that are in the draft documents.

And from there it might be easier to really say, okay, so this is really the work that we still have outstanding and this is what we need to do in order to get, you know, to that deadline that we've set ourselves.

James Bladel: Okay, thank you Marika. Next is Chris.

Chris Chaplow: Yes. I think Mikey was hallucinating but I have forgotten now what it was about that was - I would have jumped in but decided not to.

I was listening to the Council call just the last couple of days and I think we did report that we were attempting to deliver by San Francisco. I'd have to listen to it exactly again, but it was toward the beginning of the recording that is reporting.

I mean our actual original charter talks about a preliminary final report at T plus 220 days. And we are now at T plus 450 I think.

So either the original estimation was way, way out of what we could achieve or we've gone a bit slow.

But anyway, we've got to give it our best shot, haven't we, which to answer James' question, if I picked it up right at the beginning, looking at the five subtopics, which we want to deliver on all five, was - is - am I right in thinking our fundamental question is do we go for these in serial or are we going to try and go for these in parallel is my question.

James Bladel: I think that question is on the table. I think it was Bob that raised that initially and I think that that is one of the questions that's on the table.

Someone is typing. Could we ask for a mute button please?

Bob, you're next in the queue.

Bob Mountain: Yeah, this is Bob speaking. Yeah, I guess that's - I think it is aggressive to the point of being unrealistic to have all five addressed in time. I think my opinion is if we were to cut it down to a much smaller number, that it would be ambitious but achievable if we, you know, all sort of agreed to focus, assigned a project lead, you know, a small number of project leads.

I think that is a chance of hitting it and I would echo, you know, the previous - I think it was James who said, you know, set an aggressive goal and even if we miss, we're - we'll still be farther ahead than if we, you know, if we did not.

So - but again, I think, you know, if we just, you know, agree to hunker down and choose a smaller number, I think we have a chance. I don't believe that all five are feasible though in the time constraints allowed.

James Bladel: Okay. And thanks Bob. I think that's where we're all coming to the same conclusion, as well.

With the - you know, just looking at the chat window here, there seems to be some discussion about what - you know, where the expectations are with Council and, you know, what we had mentioned to them in our status report.

And we can certainly get synchronized with them in Cartagena once we finalize this work plan, but, you know, I think that - you know, the overriding message I received from Tim was something to the effect that, you know, it's less important to look at the actual dates that were laid out in our charter.

As you mentioned, you know, we're on Day 400 or something and our charter has milestones that say 200 that weren't delivered so it's less important to focus on the numerical date and it's more important I think to follow the prescribed process and make sure we're keeping Council informed of our status as we go along, and I think that that's, you know, something that we should just continue to strive to do.

The queue is clear and, you know, think can we poll the group here real quickly and just say, you know, of the folks on this call that we agree that setting an aggressive work plan is the right approach even if we miss it we'll be further than the road than if we didn't have an aggressive plan?

And then secondly is this that aggressive work plan that we want to see. Let's see, looks like rough support for that via the checkmarks.

Okay, so then the second part of that compound question is just - is this the approach that we want to go forward with. You know, leaving the door open to, you know, adjustments and modifications as we encounter new challenges which are certain to do.

Okay, I have rough support for that, as well.

Also have a note in this chat with Berry and then I have Paul in the queue. Berry, can I put you on the spot a little bit and ask you to speak to your idea about extending the length of our call?

Berry Cobb: I think James - yeah, it's Berry. Just an idea that we've done with other calls is extended our weekly call to an extra hour and that way we kind of double things up in terms of the effort just to really push for the, you know, striving.

If we set it up now and plan to start those in January, I think that would be good and that's far enough in advance that people can adjust their calendars.

Thank you.

James Bladel: Thanks Berry. I agree that that has been effective in previous working groups. I also agree that it's very unpopular. That's why I'm going to defer until our permanent Chair returns after Cartagena and we'll capture that decision and we'll put it to him when we meet in Columbia.

Man: Coward.

James Bladel: Paul was in the queue, but now he's dropped so Marika?

Marika Konings: Yeah, this is Marika, as you were talking about planning next meetings, I wanted to note, as well, that there are two meetings on the project plan that have a question mark. One is the one of 21st of December and the other one is the 4th of January, as both of them are very close to the Christmas period.

So I guess a question would be, as well, whether those calls should be scheduled or that people are not planning to participate in those or why don't we leave them for now with a question mark and keep closer to the date.

Certainly opinion now whether people want to wait until Cartagena to discuss and decide on that.

James Bladel: Thanks Marika. And you know, my inclination is that we've already identified this as aggressive and that we should leave those dates on the calendar and, you know, recognize that based on attendance, we may not achieve a quorum to have those calls, but if there's an opportunity to have those calls that we should try to take them.

Okay, so it looks like - oh, there's Paul.

Paul Diaz: James?

James Bladel: Go for it.

Paul Diaz: Yeah, as I said in the note, I didn't respond earlier because Berry keeps beating me to the questions but his last question, for the poll, I'd strongly suggest putting in the question about timing, both when the meetings for this group would take place in late December, early January and then also the question about extending the time.

And Marika, if you or any of your colleagues on the staff can look to see would pushing it another full hour or 30 minutes more, would that automatically conflict with anything else that you're aware of. I just think it would be worth it if we're all looking at a poll anyway, rather than saying a Doodle is forthcoming, get it out, take advantage all in one fell swoop.

James Bladel: Okay, Paul, thanks. I think that's an excellent idea. So that the question that we're putting to the Doodle are what specifically? That we are going to be having calls on the 21st of December and the 4th of January and that beginning with the call on January 4, the calls will be either 90 minutes or 120 minutes and we want before that Paul goes out, we want staff to do a sanity check on the GNSO calendar and make sure that that's not immediately overlapping another call.

Is that...

Paul Diaz: Yes, if I can be so bold James, I would ask, you know, just lay out Marika, if you will, in the poll, will people - do people plan to be - to attend I'm assuming the 14th, 21st, I have to assume we're automatically going to cancel the week between Christmas, New Year, or put it in there, what the heck. So it would be 15, 21, 28 and 4 January. And then the second half is if you attend, can you stick it around for an extra 30 minutes, an extra hour, what have you.

And just make sure that if we push it out, that doesn't automatically conflict with other previously scheduled calls.

James Bladel: Okay, thanks Paul. I think that made sense. Marika, is that acceptable? Have you been able to capture that?

Marika Konings: Yeah, this is Marika. I've captured that and I'll add it to the poll.

James Bladel: Okay. Okay, so the queue is clear and we are at half past the hour, so just putting it to the group here, maybe we can close off this section of our agenda. It sounds like we have an aggressive work plan. We have a proposal to extend the calls and meet at every opportunity between now and the end of the work plan, even if it bumps up against some holidays. We'll try and achieve quorum during those dates.

And we're going to put that out to the Doodle as far as extending the calls beginning January 4.

Okay. So I guess the next step would be to thank everyone who contributed to putting this together and recommend that we move on to discussing the comments.

I'm looking at the agenda. Did we gloss over the Cartagena meeting planning or did we want to spend more time on that or are we good on that agenda point?

Marika?

Marika Konings: Yeah, this is Marika. I think we covered a lot on what we want to discuss and I guess the poll will help prepare for that, as well. I just wanted to note that the meeting was extended as requested last time by 30 minutes, so it's now scheduled from 9:30 to 11:00.

James Bladel: And thank you Marika and thanks to you and your team for getting that done. I know that making changes to the schedule at this date is, you know, nothing short of miraculous. So thank you. Bob?

Bob Mountain: Yeah, this is Bob. I guess the question that - the other thing we talked about last week was whether we wanted to have - have a moderator for the session on eTRP and I just wanted to know if we had any other consideration on that or if we're just going to handle that internally.

James Bladel: I think that - and I may be testing my memory or crossing my wires with different groups, but I think that we thought that if we couldn't handle it internally, that staff might be willing to take on that role or did I just sign you for something Marika or is that your recollection, as well?

Marika Konings: This is Marika. I think you just signed me up for something. I do recall I think that someone suggested maybe someone that like Ken could help but I think I noted that I think he's not scheduled to attend the Cartagena meeting so that might be difficult.

James Bladel: I remember we were talking about, you know, whether you and Margie would be available or whether Rob Hoggarth would be available. I remember we threw some names out there. I don't remember where we settled on that question, to be honest.

I guess would that be something that - would that be a role that you could play Marika, or is that something you would want to look into and maybe get back to us?

Marika Konings: I'm happy to try to take that on with the help with the Chair and all the home working group members.

And just looking at the schedule, I don't think Rob will be able to attend because he has another working group he's supporting at the same time but I'm sure I can convince Margie to join me and help out.

James Bladel: Okay. And, you know, otherwise, Bob, I think that we're probably, you know, okay to do that internally even if it's not perhaps our first choice.

Bob Mountain: All right.

James Bladel: Simonetta is next.

Simonetta Batteiger: I'm just volunteering, Marika, if you wanted to, maybe you and Michele and I and whoever else would like to could meet before that meeting for prep for it and come up with an agenda. Because I'm going to be there earlier anyway, so I could make time for that.

James Bladel: Okay, thanks. That's noted and we should probably have an agenda for the Cartagena meeting before we show up in the room so we can hit the ground running.

You know, I would think that in this type of a discussion, we would want to make sure that the role of moderator not only is neutral but also doesn't overlap with any of the positions. And therefore you know, I think it's hard to - or maybe possibly unrealistic to find someone besides staff that doesn't have strong feelings about one of our chartered questions, or (unintelligible), or one of the others. So you know, it might not be realistic to ask anyone but Marika to help us with that role

But, let's - we've - I'm sorry if I misunderstood your question Simonetta. Are you saying that you would like to volunteer to put together the agenda before Cartagena, or that you would volunteer to help moderate those discussions?

Simonetta Batteiger: I'm sorry. I would volunteer to help put together the agenda. And I was just saying that because I'm going to be early anyway - in Cartagena early anyway, so I could sit down with Marika and Michele. And if someone else would like to be part of that as well, just to come up with an agenda so we can start that meeting and we don't have to start with 30 minutes of consensus on agenda making, but we can really jump in and get to the point that we want to get to. And, I really liked the point that were laid out in the work plan.

James Bladel: Okay. Well, let's take that to the list. I think that you know, if we can have something like that either hammered out - you know for next week's call or you know before the Cartagena meeting. And if necessary, maybe we can get a group together in someplace that has a cocktail lounge and put the finishing touches on that, that would probably be a good thing as well.

I see lots of agreement when we talked about meeting for drinks there. That's - I think - and it might be as well. I think IRTC issues and any PDP goes down easier with - you know, when we're talking about evening meetings in the lounge.

Okay. The queue is clear, and I think we have at least a rough path forward to the Cartagena meeting, the format that it will take, and the agenda still does still need to be finalized, but we have a target to do that here before the next call. And then, we'll get together and discuss some of those when we're at the site.

So, we now have about 25 minutes remaining in our time, and Marika has put the comment review tool up in the Adobe Chat. And Marika, if you could help me. Which question did we leave off on by number? I think we were...

Marika Konings: Number 9.

James Bladel: Number 9. Okay. The remaining questions - I think there are about 20 questions remaining. Is that correct?

Marika Konings: That's correct.

James Bladel: Okay. So, the remaining - not questions I guess, but comments received that we - need to be reviewed, there were about 20, and many of them are either direct duplicates or mostly overlap with discussions that we've had previously regarding EGRP. So, I think the first pre-screening that we might want to do to these remaining 20 comments is to identify which ones are - which ones have been thoroughly covered, and which ones are you know beating dead horses, if not beating the skeletons of dead horses, versus the ones that actually introduce new ideas or things that the working group hasn't considered or hasn't discussed.

So starting with Question 9, I think that we can go through each of these, and then the first question would be is this a novel comment, is this new material, or is this something that we feel was already covered? And if it's the latter, then I would think just a cursory acknowledge that this is something that we discussed, and we can then move on. And, I think that will help us get through these comments quicker.

Does anyone feel that that approach is acceptable? Doesn't do justice to the commenter? What do you - what are your thoughts on that?

Okay. I see agreement from Paul, and I think Bob as well in the chat. I don't want to read too much into what he's saying there, but - yes. Okay. So, we have definite agreement.

So, let's dive right into Number 9. Number 9 reads, "There needs to be certainty in the transfer process, allowing it to be contested up to six months does not help." I think the first question is do we feel that this has been

adequately covered in previous sessions? I feel it has. Does anyone disagree with that?

And the queue is clear, so we should acknowledge that Number 9 has been thoroughly discussed. That many folks do feel that there is a problem, particularly with the six month timeframe that's mentioned in the EGRP.

Question Number 10 reads, "The closer," - oops. Sorry Bob.

Bob Mountain: No. I didn't mean to jump ahead of you, James. I just had a point to make on this one. But please, go ahead with the question.

James Bladel: Oh, okay. So, we're - you had a point to make on Number 10 then?

Bob Mountain: I did, yes.

James Bladel: Okay. So Question Number 10 reads, "Closer review of the indemnification provisions recommended, will indemnification be effective should the undoing registrar be indemnified?" I think before we dive into the substance of that question - I'm not entirely clear on what that means just because of the construction of the sentence.

Bob Mountain: Yes. This is Bob. This came up a couple of times here. I think we do refer to indemnification, and there were suggestions that you know, the indemnification needs to go two ways. So, it did seem like an area where certainly additional detail, but additional thought - you know, work needs to be put into this one.

So, I just think we need to flesh this issue out a little bit. It did come up in the work that Simonetta and I had done.

James Bladel: Okay. Okay. Thanks, Bob. And I guess maybe some better context of this comment would be helpful, because I understand that - you know, that it says

something that there they want a closer review of the indemnification provision, but would it be effective should the undoing registrar also be indemnified? Okay, so that's the bilateral thing that you're mentioning, Bob.

I do hear someone typing in the background. If I could just remind everyone to please be on mute.

And Kevin is next in the queue.

Kevin Erdman: Yes. I just wanted to make a point about Number 10. Is - you know, that's really a reflection of some of the you know, risk allocation in terms of the process - the whole you know, (ERTP) process. And you know, I agree with the comment that it ought to be very thoroughly reviewed. And you know, this is an item that really requires a high degree of consensus because it is - its assigning real money you know, outcomes in the - in this new process.

So, I - you know, I agree whole heartedly that there ought to be a real thorough discussion of that.

James Bladel: Thanks, Kevin. And, I put myself in the queue because I think that your question is also reflected by Simonetta in the chat. But she asked can we get someone with a legal background to comment on this.

I think that - you know, if I can weigh in here as a registrar, I think that we should take a closer look at this as well, including how this could even - does this even apply you know in the context of a consensus policy? You know for example, we don't have provisions about indemnification on any of the other consensus policies. Why would this one you know, necessarily be different?

And secondly, can ICANN even prescribe such a thing, particularly when you're looking at the nature of the ICANN organization and all of its jurisdictions of all of the registrars that have signed the RAA? So you know, I have open questions about whether any of that stuff is even appropriate.

That's - I think that maybe someone with a legal background, or possibly even ICANN legal should weigh in on this question.

Kevin Erdman: Yes. I will make my comment that it certainly - you know, since there is a contract between the registrants and registrars, and part of the terms of that contract are dictated by ICANN, for instance, the UDRP, it's certainly something that can be legally put into the contracts. And you know, it's a question of where you try to enforce those contracts, whether it makes sense - but I mean thus far, I haven't found jurisdiction that has overridden the contractual provisions of the UDRP. And you know, I would expect the same thing in any new procedures that ICANN would make.

I think the bigger question is you know is it appropriate? I mean, part of the rationale for it is that if someone is going to go to the extraordinary situation where they need to invoke the ETRP, we want to make darn sure that they have you know, the requisite entitlement for it.

And, part of that -- sort of raising the ante on it -- is to put it in this contractual provision that's a real money contractual provision you know, that - you know, if a party invoking the ETRP is wrong and they cause some harm, then there's going to be this contractual liability that springs up from it. And you know, we may or may not feel that that's appropriate. But, I think that's the rationale behind it. That's the end of my comment.

James Bladel: Thanks, Kevin.

Chris?

Chris Chaplow: Yes. What I'm reading into that is about the effectiveness. And, I think what they're saying is you know, it's all right us laymen or -- and calling myself that -- talking about indemnification, but really is it a practical option for somebody to invoke with you know dual restrictions around the world, unless we're

talking of really, really serious damages with - result of the hijacking. I think that's what they're saying.

James Bladel: Okay. And thank you Chris. And you know, I would add on to what Chris and what Kevin are saying with a further comment that ICANN policy is just we - you know, when all registrars sign on to ICANN policy, you know they - it just seems a little bit like a one-off, you know that we would have this one particular policy identifying risk and allocating risk, as Kevin put it; whereas, other policies don't require that. They do you know, prescribe language that has to be in a contract with the registrant, but it is not - you know, it's slightly different when we're talking about registrar to registrar here.

Okay. So, what is our next move here? Do we want to ping ICANN Legal on their thoughts on this, or do we want to mark this as something that needs further legal review? And if so, what is that further legal review look like?

And my thinking here -- and I'm just brainstorming -- would be that we mark this as something that we can possibly ask ICANN Legal to weigh in on, and that would be our first step.

Bob agrees, and Marika's in the queue. Go ahead, Marika.

Marika Konings: Yes. This is Marika. I'm happy to take that back to ICANN Legal. And, a suggestion might be I can also see if someone from Legal is actually available to maybe sit in on our session to see if - you know, if they would have any comments or any suggestions in relation to those kind of issues that they could comment on the spot.

James Bladel: Okay. Thank you Marika. And, can we also capture Simonetta and Chris have included some additional thoughts in the chat as well as the spoken chat from Chris, Kevin, and myself, and just kind of get all of those into the discussion with ICANN Legal?

Marika Konings: Will do, sir.

James Bladel: Okay. Thank you.

Okay. So now moving to Comment Number 11. Reading this out. "ETRP is not a dispute resolution mechanism in itself but needs to be tied to a more comprehensive review once the transfer has been restored, for example, UDRP." The first question is have we sufficiently covered this in our discussion? It certainly sounds familiar.

I think that some of us have pointed out the distinction between ETRP as a dispute resolution mechanism versus ETRP as being something that just restores the status quo so that some other type of dispute resolution process can kick in. But, I'm open to thoughts. If someone sees something new or uncovered in this comment, we'll certainly spend some time on it.

Any thoughts here? Chris - Chris I see you in the queue.

Chris Chaplow: Yes. I think in the first part, we agreed with that. We want to make this statement quite clear that it's not a dispute resolution mechanism. I think the key word here is needs to be tied to, so that would be a decision on our part. Are we tying it to another process, or are we leaving it floating so that other processes can be chosen? I think that's the crux of that - Number 11.

James Bladel: Okay. So, there's - there is something potentially new here, in that the process does not specifically spell out that it is linked or it's just a precursor to a follow-up process, and maybe it needs to do that. That correct?

Chris Chaplow: Yes. Sorry.

James Bladel: Okay.

Okay. Anything else that anyone would like to discuss about this comment? If not, we'll move on to Number 12. It looks like we have about 10 minutes left in our time. Number 12 reads, "Domain name hijacking is a problem that should be addressed. But each ETRP is only a Band Aid." And, I want to put out to the group that this is - kind of looks like a horse skeleton.

And, I think that we've got some folks saying that they agree with that in the chat, so then we'll note that this is something that we have discussed in other calls.

Comment Number 13. "The current proposal does not require any due processes. It does not require the original registrant to demonstrate that the transfer was not authorized." I think that due diligence, due process, and vetting of the original request or the concern that this would be abused has been addressed in previous calls, but I'll pause here for a moment if anyone disagrees with that.

It looks like the queue is still clear, so - and the chat box as well, so we'll move on and note that 13 had been discussed at length in our previous calls.

Now, Comment Number 14. "The current proposal does not include any information on how to dispute an ETRP, and suggests that assigning the domain name sale agreement or evidence of payment of a purchase price into the original registrant's bank account should be sufficient evidence to dispute the ETRP."

There's quite a bit in this comment, but I think that you know, in the - without doing any disservice to the commenter's thoughts here, I think that the general thrust of this comment is that you know, it's not clear how this could be abused or not sufficient safeguards in to prevent the type of claw backs of scenarios that we've discussed thoroughly. And that you know it's not valid I guess is the one way to say this, that there is not a mechanism to dispute the claims of hijacking.

But, I will pause here just in case that others feel differently, and note that there is something new or untouched in this comment.

The queue is clear. We have seven minutes remaining.

We'll go to Comment Number 15. "Items such as indemnification, how to address potential abuse of the procedure and an appeals mechanism should be further fleshed out." I think that's catchall for all the dead horses that we've discussed in other meetings, so I'll just give everyone a few seconds. If you see something new here, and - then move on.

I'm sorry. Was that someone trying to weigh in, or...

Okay. Comment Number 16. "Further research should be conducted to scope out the size of the problem of hijacking. Registrars should be requested to disclose the number of domain names hijacked each month." I think that this is mostly covered.

I'm open to the idea that there's something new here, but we have discussed the supporting data that could be gathered if it is available to support - to kind of put the boundaries around the scope of the hijacking problem, as well as I think - well, I'll go ahead. I'll interrupt my thought here and go ahead with Chris so I can get my thinking together.

Go ahead, Chris.

Chris Chaplow: Yes. I think obviously - that's very good information isn't it? We've talked about this before, the disclosed number of domain names hijacked. Obviously, there's definitions associated with that. But if that information - we talked about as far if that information has been collected, and can be collected on an ongoing basis, in a couple of years time we can look back

and see whether this report has been a success or not (on the implication) of this. Without the information, we'll never know.

James Bladel: Agreed, Chris. And, I think Paul also has a good point in the chat as well, that this could be considered sensitive or company proprietary data by a lot of registrars, and may not be very keen on sharing statistics on this information.

And then you know again, we also touched on this idea that you know, what number would - you know, where would those thresholds be? You know if we said that 1% of domain names were hijacked, would that be considered an adequate harm to require a procedure? Well, it depends on which 1% we were talking about. I think there was some discussion that you know, the targets of these types of names are usually high traffic, high value names.

I see that we've got a queue building up on Number 16, so I'm just going to pause the rapid fire session here and go with Bob.

Bob Mountain: Yes. Thanks. This is Bob. Yes, I understand the sensitivity of the disclosure. Should we think about you know, some kind of research mechanism which would allow people to volunteer this information anonymously? You know certainly, the questions that we asked this part of the aftermarket survey - very small sample size, but would lead me to believe is not a huge - as huge a problem as I thought it was initially.

Should we expand that, and perhaps use some kind of survey tool to go out anonymously to get further data on what the scope of the problem is, and respect I think Paul's point, where people would not want to volunteer that information necessarily in public.

James Bladel: That's a good point Bob, and I think that perhaps if it were anonymous, or perhaps just generic specifics were requested that perhaps we could get back something a little more meaningful if we didn't dive into details. But then

you know, I think that the follow-up question still stands is at what point you know, does that data actually inform the different perspectives on ETRP?

Do the folks who - well, let's say feel that hijacking is a problem point to that data and say, "Gee. We told you it was terrible. It's a jungle out there." Or, do the folks who are concerned about ETRP point to that data and say you know - the same set of data and say that this proves our point that this is a very rare and you know a non-harmful practice. And, I don't know that we can - I guess we can collect data, but we should also have an idea of what we want it - you know, what specifically we're asking the data to show.

Simonetta, you're next.

Simonetta Batteiger: I'm with Bob on this one, and I'm wondering if this data could actually be more interesting, not just for this work group but also for the registrars in general. Because if you say like we want X number of domains under your accreditation, and you have Y number of hijacking, and other registrars of the same size have relatively more or less of that, you know where you stand in the market in terms of if maybe - if you're a registrar, is there a larger problem than with others? And then if so, why? Or, are you more secure than others? You could actually even use it to your advantage and advertise the fact.

I'm just wondering if that data would not be something that registrars would like to have. I understand that. I guess I was just thinking that his point with this is that you wouldn't want to be perceived as the most riskiest registrar, but at the same time if it would be beneficial for a registrar to be viewed as a very secure choice, there could also be some upside in this.

James Bladel: Thanks, Simonetta. And you know, just - if I could weigh in here a little bit. Just - you know, we went through sort of a similar discussion when we were discussing the frequency of complaints that ICANN received about various registrars, and the registrars were very sensitive to this.

Now, I'll go ahead and put my neck out on the line a little bit. GoDaddy had a lot of complaints, but when you look at those complaints as a proportion or as a percentage of the names that are under management, we weren't even cracking the you know, top 25.

So it's - you know, and again - you know, what's the old saying? There's lies and statistics, and I think that we just need to be careful of what we're trying to demonstrate, where someone could come across in a data gathering exercise and say, "Oh, look at registrar X. They're very, very unsecure." Well you know, other factors could be at play here. Registrar X could be very, very large, or registrar X could have a high percentage of you know, high value names that make for a very common hijacking target.

We could put out there, and not to pick on Mr. Serlin a little bit. We could say you know, MarkMonitor has a lot of very well known corporate customers. Perhaps it's you know, those names might be seen as the more frequent victims of hijacking attempts than just a - you know, my grandmother blog or something like that.

I see I've got a queue building up here, so I wanted to - well okay. I picked on Matt, so he's got to go first on this one. Go ahead, Matt.

Matt Serlin: I was just going to clarify attempts, not hijacking success.

James Bladel: So right. And, that's - well, there's another good point. It's a distinction being made between successfully thwarted hijacking attempts versus the hijackings that actually occur and had to be - you know, engaged in some sort of registrar to registrar communications to get them undone.

Matt Serlin: Yes. I would just agree with sort of what Paul's put in here in the chat, but I think registrars by in large are going to be very hesitant to have sensitive data like this that shows registrar X had you know, any number of names that were

hijacked. And so, I think you're going to meet a lot of resistance in the registrar community for that.

James Bladel: Right.

Matt Serlin: But, that's just my two cents.

James Bladel: Right. And, we've seen how somehow - you know, where little bits of data can get out into the wild and suddenly tell a different story.

You know, I think the primary concern right now is that Number 16 seems to be our stopping point. You know, we can pick up there next Tuesday. I want to close the queue to Marika and Paul at this time, and note that we're just a couple of minutes past the hour. So, if we can have a quick feedback here. Marika.

Marika Konings: Yes. This is Marika. Just very briefly just to highlight as well. In the report, there are some data that ICANN (unintelligible) to provide some time back, and the issue of stolen and domains - or hijacking is on that list ranked as Number 10, with 3% of IRTP claims related to that issue. Of course, it doesn't provide further details as to - you know, whether there was an attempt, a successful attempt, what the actual reason was for the hijacking or the cause, but it does give an indication that you know - there are complaints in relation to that.

And again as everyone said, I'm not sure how more precise data we will be able to get.

James Bladel: Okay. Thank you, Marika. And Paul, go ahead.

Paul Diaz: Thanks, James. I was just going to note you know, Marika's touched on that data point. We've got some stuff from Bob and Simonetta's survey efforts. The data we have is the data we're going to have folks. You know, at the

eleventh hour to entertain an idea for further research - if registrars have not provided data, and they could've done it in an anonymous form if they had wanted to, over the year plus that we've been working in this working group, you're not going to get it.

So, why don't we just recognize what we have and move on from there. I think it's kind of silly to think that we could suddenly put a call out and get a whole wealth of new information. It's just not going to happen.

James Bladel: Thanks, Paul.

Okay. So, I thank everyone for sticking around a couple of extra minutes. The next call will be a week from today. For those of you in the US, enjoy your time with family and food. And if there are no other last minute items of business, I'll go ahead and close the call and we'll turn this back over to Marika next week. I'm sorry, to Michele next week. Marika and Michele.

((Crosstalk))

Man: Thanks, James.

Man: Well, thanks James.

James Bladel: Okay.

((Crosstalk))

END