

**ICANN
Transcription
IRTP Part D Working Group meeting
Monday 21 July 2014 at 15:00 UTC**

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

Attendees:

Barbara Knight – RySG
James Bladel - RrSG
Graeme Bunton – RrSG
Holly Raiche – ALAC
Volker Greimann – RrSG
Avri Doria – NCSG
Bob Mountain – RrSG
Arthur Zonnenberg – RrSG
Kevin Erdman – IPC
Rob Golding – RrSG
Kristine Dorrian – National Arbitration Forum

Apologies:

Paul Diaz – RySG

ICANN staff:

Marika Konings
Amy Bivins
Lars Hoffmann
Berry Cobb
Steve Chan
Terri Agnew

Coordinator: Your recording has been started.

Terry Agnew: Thank you, (Aisha).

Good morning, good afternoon, and good evening. This is the IRTP Part D Working Group Call on the 21st of July, 2014.

On the call today we have Volker Greimann, Holly Raiche, Barbara Knight, James Bladel, and Graeme Bunton. Joining a little later today will be Kristine Dorrain. We have apologies from Paul Diaz.

From staff we have Lars Hoffman, Barry Cobb, Steve Chan, Amy Bivins, and myself, Terry Agnew.

I would also like to remind all participants to please state your name before speaking for transcription purposes. Thank you very much.

And actually, it looks like Bob Mountain just joined us as well, as well as Arthur Zonnenberg. Thank you very much, and back over to you James.

James Bladel: Thanks, Terry, and welcome to Bob and to Arthur.

Okay, so when we last left our heroes - oh, I'm sorry. I forgot. Does anyone have any updates to their Statements of Interest? Please indicate so by raising your hand in the chat room at this time.

Okay. And then the agenda that was circulated - it was very simple. It was circulated by Lars. We are continuing our redline review of our recommendations in just determining consensus level, and then we will stop just a few minutes short to talk about our next couple of meetings because I know we're starting to enter vacation season a little bit here, and I want to make sure that we have ample meeting time allocated to conclude our work.

So Lars, if I could ask you to direct us on which page did we last leave off? I have on my screen Page 9 of the report.

Lars Hoffman: Hi, James, this is Lars. Yes, I suppose that's where we left off. (Unintelligible)
I release the document right now.

James Bladel: Okay.

Lars Hoffman: Just pull up here then - we went through 7 and 8. Got to Question C, Observations. We went through the Maintenance and (Implementation), and changes that you can see. And then so we would have to take it up again at Recommendation 8 on Page 9, yes.

James Bladel: Okay, thank you Lars.

So just so everyone is aware, we are at the top of Page 9 with Recommendation 8. And we'll go through here the Number 8. The working group recommends not to develop dispute options for registrants as part of the current TDRP.

Recommendation Number 9, the working group recommends to include a list of definitions as put forward in Annex D. Should be added to the TDRP to allow for a clearer and more user-friendly policy.

I think that there's maybe some language that needs to be cleaned up there, but otherwise I think that is correct.

Perhaps instead of having a hyphen there, we can just say include a list of definitions, you know, or as indicated in Annex E and then just say included - the problem I'm struggling with is included to be added. So I think what we say is include a list of definitions (Annex E) to the TDRP to allow for clearer, more user-friendly policies. I think that's where we want to go with.

Okay, Lars, yes - you're way ahead of me, Lars, so thanks.

Okay. Then moving to Recommendation 10. The working group recommends the GNSO is sure that IRTP C, Inter-registrant Transfer Recommendations are implemented and include appropriate dispute resolution mechanisms.

Now here's where I'm - I think we might want to spend just a moment here. First of all when we say the GNSO, are we referring to the Council, staff, the community? I think that maybe needs to be a little more specific.

So, we could say something like the working group recommends that staff you know in close consultation with the IRTPC implementation team, implementation review team, or whatever that body is called, works to ensure that inter-registrant transfer recommendations are implemented and include appropriate dispute resolution mechanisms.

I think the key here is that I don't believe it's - I'm not sure where you're going with GNSO. I think it's unclear.

I've got a queue forming here, and we'll start with Holly.

Holly Raiche: Thanks, James. Holly Raiche for the transcript records.

I thought in IRTPC there were recommendations about registrants also having an appeal mechanism, or being able to appeal? And, we've actually - we've agreed against that, so I'm not sure that we should say all recommendations.

Just a cleanup. I think it's probably wrong.

James Bladel: So I think that what we determined in this group was that -- and I think this is going back to our use cases -- is that the disputes between registrants should be - that this is the appropriate place for that to be done, and not as part of the TDRP.

I will of course defer to the rest of the group, if their understanding was different. But, I believe that's where they were kind of trying to push back over to IRTPC and say this is the appropriate place for those dispute mechanisms, not TDRP.

Holly Raiche: Yes.

But just - didn't we also say that registrants under this - under IRTPD, the only mechanism is going to be - well, they're going to have to use either a TDRP, or if the reason for the difficulty, whatever it is, is that in some way policies have not been followed, then they go to compliance and then they don't have a mechanism, other than going to compliance if there's a problem with the policy.

Otherwise, then it's settled in other ways, but not using this mechanism.

I just think there may be some lack of clarity here. That's all.

James Bladel: Okay, I see where you're getting at. I think what we were saying is essentially that the TDRP is specifically for inter-registrar transfers - problems with inter-registrar transfers, and so therefore it should be initiated only by registrars. And if registrants believe that they were improperly involved, then they should go to compliance.

And on the flipside, IRTPC deals with inter-registrants transfers.

Holly Raiche: Yes.

James Bladel: And I think our use cases were very - it came up numerous times in our discussions with the use cases that two entities or two parties may be disputing a transfer between registrants. And I think what we're saying here is that that policy should also have a dispute mechanism separate from TDRP specific to inter-registrant transfer - disputes.

That is - I think that we probably need to clarify that, so let's make a note here, Lars, that we're going to need to maybe clean up specifically what we're meaning with this Recommendation Number 10.

And green checkmark.

So, we will circle back and clarify that, Holly, because I think I see where it would be - seem like it's - we're being - we're contradicting ourselves.

Holly Raiche: Yes.

James Bladel: Barry?

Barry Cobb: Thank you, James. This is Barry Cobb for the record.

So I think another part of this Recommendation Number 10 that we're going to need to modify is the last phrase, "and include appropriate dispute resolution mechanisms."

I think first and foremost, and I'll have to go back and check on the original recommendations for the change of registrant, which staff is currently working on. I'm not so sure that it did include the development of an appeal mechanism in there. Certainly, any of the discussions up to this point haven't mentioned that, but I need to confirm.

But circling back to this recommendation here, I think - it's not in the mandate for the IRT's to - and staff to create a dispute resolution mechanism even though they are reviewing these particular use cases.

The text below the recommendation is correct, that basically you know you need to monitor for the need of that. And if that need should arise, that the

GNSO Council be informed and then thus kick off an issue report that could create a PDP on creating a dispute resolution mechanism in that case.

So I think we need to modify the recommendation to say monitor for - we can - you know, the IRT's can certainly analyze the use cases further, but at best, all we can do is kick it back to the Council for their consideration.

So, I recommend that we change the last phrase of the recommendation as well as I think there was a few statements to that same effect in the deliberations of the working group that we should clean up there as well.

James Bladel: So - okay, thanks Barry.

So what we're saying is that we would drop everything after implemented?

Barry Cobb: I wouldn't say drop it. I would say modify it that staff and/or the GNSO monitor for whether a dispute resolution mechanism should be considered. I mean I guess in reality terms, once the change of registrant policy is implemented, which will certainly be well into 2015 before the policy effective date begins on that, the best that we can do is from a staff contractual compliance perspective try to monitor to see if there are issues with that.

And of course, collaborating with registrars as well to see whether you know there might be issues that arise as to the implementation of that policy.

And if so, if we're seeing like an overwhelming concern about transference use between registrants, then an issue report would be kicked off as approved by the GNSO Council.

James Bladel: Okay.

So I don't think you're wrong. I just have a concern, which is that this function is going to fall through the cracks somewhere between C and D in that C --

IRTPC for those who weren't on that working group -- proposed an inter-registrant transfer function, and IRTPD is regarding disputes. And one of the more common use cases that came up, as outlined in our appendix, is this dispute between registrants.

So I think that the concern is that we have developed a process in IRTPC that's scheduled to be implemented and we've develop dispute mechanisms in IRTPD that explicitly exclude that new process so that there would be for some time - presumably, there would be no means to dispute a inter-registrant transfer except through some sort of informal registrar-to-registrar process, or through - you know, or through things like courts or the UDRPs if there are trademarks involved.

So I'm not necessarily opposed to that being (unintelligible) to monitor this and see that is in fact a problem. As a registrar, I can tell you that we certainly don't knowingly insert ourselves into just commercial disputes between two private parties, whether they're customers - unless it's obviously a case of fraud or deception.

I'm sure other registrars agree that you know, if there are family members fighting over a divorce or an inheritance and a domain name is part of that, or if it's two business partners or vendors arguing about the terms of a commercial agreement that's gone bad, you know the registrars don't relish being put in a position of refereeing those disputes. And, I'm certain that ICANN wouldn't either.

But, I want to be clear what we're saying then is that we would be - that there could be a potential gap between the time that the inter-registrant policy takes effect and any dispute mechanism is put in place.

So that's just - am I capturing that correctly, Barry? Or, have I missed an important part of your contribution there?

Barry Cobb: This is Barry.

No, I agree that that is definitely a risk as you outlined. Again, I'm not trying to - I'm hopefully not trying to make this more difficult.

The way we had the text supporting the recommendation seems correct to me. That you know, the teams are charged with formulating a request for an issue report to review the remaining use cases, and et cetera, et cetera. To where a dispute resolution mechanism could be created.

If the working group does feel that this is a risk going forward once that change of registrant policy is implemented, then perhaps we should modify the recommendation that staff go ahead and create an issue report on it to address it.

The point is, is that you know this would fall between the policy versus implementation issue if staff were to create a dispute resolution mechanism, and certainly the IRTs are not chartered in a way to create that kind of policy either.

So either we...

James Bladel: I completely agree.

I completely agree that it would be well over one side of that fence, the policy versus implementation. And I think that you know it opens up a larger debate of is that an appropriate role for ICANN, ICANN compliance, or ICANN in general to adjudicate those kinds of disputes because we've already outlined in our use cases the sorts of cases and incidents that will be brought you know under that dispute. You know divorces, inheritances, business deals gone bad.

You know, and the question is do we want to open that can of worms and lay it on ICANN's doorstep?

So - and I think that that's a conversation that would have to happen as well. So perhaps what we should do here is note the way that you called out here, Barry, that the - that the IRTPC and IRTPD recommends that the implementation review team could formulate a request for an issues report to review remaining use cases and consider whether information - additional dispute resolution mechanisms should be developed.

I would strike the changes to the TDRP because that's almost implied here that you know everything that we've reviewed is - should be subject to a second issues report. I'm wondering if that parenthetical needs to go?

Looking for input here from the rest of the group on this issue, because you know we studied this fairly extensively and I want to make sure that we are going into this recommendation with everyone weighing in.

Barry?

Barry Cobb: Yes, James, thank you. This is Barry.

Just again, I think you know this - apparently - or it's clear that there is a gap here, and maybe the faster route will be to modify the recommendation to state that staff go ahead and create an issue report on it. And that way, it's already in the pipeline. Of course if it's approved by the GNSO Council and we can go ahead and get that started.

Because if we wait for the IRTPC and certainly - or IRTPD IRT, which wouldn't happen until you know towards the end of this year, early next year, you know we can already have this in the pipeline to move it forward.

But so maybe it might be wise to just modify the recommendation to go ahead and just request the issues report.

James Bladel: Okay. But that - that's one path. I guess my question is does that presume that we've already had the discussion that we do believe this is appropriate for ICANN, or would you envision that that would be one of the charter questions in the issues report?

And then the second question is...

((Crosstalk))

Barry Cobb: (Unintelligible)...

James Bladel: Yes.

And then the second question is would we need some experience with this new change of registrant function in IRTPC in order to develop a sufficient basis of experience for staff to issue an issues report?

Because right now, they would be studying a hypothetical, or something that's let's say happening outside of the ICANN sphere. I think that's the only concern I would have with calling for an issues report now is that we would be studying something that hasn't been implemented yet.

Yes. Barry notes that it's a paradox.

I kind of like the way it is now. It's to say that you know we expect that this you know will generate a high potential for a future issues report, but we are reluctant to call for one now simply because there's a lack of experience with the new function. Something along those lines.

So I'd say you know, strongly note that there's probably an issues report coming on this topic, but that - but this group should stop short of actually calling for that.

I don't know. What are your thoughts? I'm looking for the audience here to chime in and let us know what they think on this topic.

Everybody's just so quiet this morning.

So okay. Well let's take a stab at that, Lars. I know that there's a lot going on here, but I think that what we we're essentially landing at here is that - you know, that this is something that was not addressed in IRTPC. It's not appropriate to address it in TDRP, so it's not addressed in IRTPD.

Our use cases indicate that this is going to be an issue; however, you know it's still open for debate of whether or not it's an ICANN issue or it - you know just more of a commercial issue and that we could anticipate there might be an issues report on this in the future.

So - yes. Thank you. Barry notes that he will also bring it up at the next meeting of the IRTPC Implementation Review Team. Thank you.

And thanks for raising that, Barry. I mean, that's a pretty big gap for things to fall through, I guess.

I note that both Grahame Bunton and Kristine Dorrain have joined, so welcome. And Rob Goldman. All right. So we've got - the gang's all here. Fantastic.

Okay, so moving then to Recommendation 11. The working group recommends that the TDRP be modified to eliminate the first level registry level of the TDRP. I think we can strike layer in that language, the first level of the TDRP and put registry in parentheses in between first and level.

And, that was - again, that was the result of extensive discussions about the needs for consistency and the fact that this is exceedingly rare outside of just a few major TLDs.

Recommendation 12. The working group recommends that ICANN take necessary steps to display all relevant information for registrants that are related to potentially noncompliant transfers prominently on its Web site and assure that the information given is written in a simple and clear manner. I think that's the end of the recommendation.

During its work, the working group found that the information on the ICANN Web site describing registrants with regard to inter-registrar and inter-registrant transfers is not clearly formulated nor prominently displayed. Public comments received are consistent with this assessment.

I wonder if we could perhaps just apply that - I'm sure it's fine the way it is here, but we could say something like display information relevant to noncompliant transfers prominently on its Web site and assure the information is presented in a simple and clear manner and is easily accessible for registrants. Something like that. I think we can probably clean that up a little bit.

So that's the end of Page 9. Does anyone have any thoughts on the discussions we had on Page 9? That's Recommendation 8, 9, 10, 11, and 12.

Take a queue on that.

And we have an empty queue.

Okay, let's move then to Page 10, beginning with Charter Question D. Charter Question D states whether recommendations - I'm sorry. Whether

requirements or best practices should be put into place for registrars to make information on transfer dispute resolution options available to registrants.

And then here are our observations.

And the recommendation - there's a last paragraph on Page - towards the bottom of Page 11. This is a red line. The working group reviewed all comments on this recommendation that were received after the publication of the finished report. ALAC stated however they would like to see an emphasis on user-friendliness for recommended help portal.

The language of the recommendation was amended accordingly.

The BC emphasized in their comment that the display of information on registrant's feed options on registrar Web sites shall also be added to reseller sites.

As a result, the group agreed to add a best practice recommendation.

So this all leads us to Recommendation Number 13. The working group recommends that ICANN create and maintain -- strike the S there -- a user-friendly one-stop Web site containing all relevant information concerning disputed transfers and potential remedies to registrants.

And then it has some bullet points on what this should include.

May I - just as a thought here, going back to our previous recommendation, Recommendation 12, do we want to reference this Web site in Recommendation 13 in our discussion of Recommendation 12?

Holly Raiche: Yes.

James Bladel: Was that Holly?

Holly Raiche: Yes.

James Bladel: Yes.

I think so. I think that that's - Recommendation 12 is a little squishy until you get to Recommendation 13 and you figure out, "Ah-ha. This is exactly what they were talking about before."

So Lars, I don't know if you can somehow leave a bread crumb in Recommendation 12 that will refer you to Recommendation 13 below?

Okay, checkmark. Fantastic. Okay.

And then here are some links.

The working group recommends that as a best practice ICANN-accredited registrars prominently display a link on their Web site to this ICANN registrant help site. Registrars should also strongly encourage any resellers to display prominently any such links as well.

Registrars may choose to add this link to those sections of their Web site already containing registrant-relevant information such as the Registrant Rights and Benefits, Registrant Rights and Responsibilities, and Whois information, and other relevant ICANN-required links as noted under Section 3.16 of the 2013 RAA.

Arthur?

Arthur?

Arthur Zonnenberg: Hi, James. This is Arthur here for (unintelligible) just chiming in on the explanation on the ICANN Web site.

I assume this is after the registrar outreach that has been done, right?

James Bladel: Registrar outreach as in terms of making sure that registrars are aware of the new requirements of the links to the information and make sure that they have access to those materials? Or something else?

Arthur Zonnenberg: No. Registrar outreach as in in case of a dispute. Sorry, in case a transfer has gone wrong according to one of the registrants. That we try and solve it ourselves before we refer the end-user to ICANN.

James Bladel: Oh, okay. I see what you mean now. So that's a good point.

What we would need to do is first ensure that the registrants who have the concern about a transfer has exhausted that avenue and has reached out to their registrar initially before they would go to ICANN. And I think the way we would do that is by creating a new bullet point under Recommendation 13, which would be a first bullet point which would say something like encourage the registrant to contact the registrar and attempt to resolve a disputed transfer there first before engaging ICANN or other parties.

Something along those lines, Arthur?

Arthur Zonnenberg: Yes. I agree.

James Bladel: So I don't know, Lars, if you captured that language, but I think that that was something that we did discuss as a group is that we always want to encourage that to be the first step because that will usually end up being the fastest path to resolution.

And so Lars has got a green checkmark that he caught that, so I think we'll just add that as a bullet point.

Holly?

Holly Raiche: I agree with Arthur I think that would start in I think it's either recommendation 13 or 14 what's on the ICANN Web site should then say these are the steps that you take.

And then that's included as the first step and then what you can do after that and I think Arthur has already sort of listed some of the first levels as well. I don't know where those fit but I think it is important to say registrars may be the first point of call I think that was a good point, thanks.

James Bladel: I agree and - getting an echo there. I think that by capturing this in the bullet point the first bullet point under recommendation 13, 5242 that we are going to capture that as well.

Arthur notes will those ICANN explanations be translated into Dutch? Not sure, I know that the traditional means is that they translate into the six UN languages plus Portuguese.

But I'm certain that if someone wanted to volunteer that translation they would link to that as well. Okay so thank you Arthur and Holly that was a good catch and I think a good addition to this session.

And we can then move to charter question E, whether existing penalties for policy violations are sufficient or if additional provisions of penalties for specific violations should be added into the policy.

And our observations were that - so just a little bit of background here once again folks is that when this charter question was written the only RAA that was in existence was the 2001 RAA.

And the only punishment under the 2001 RAA was D accreditation. So ICANN could basically had, you know, the death penalty for registrars and nothing else.

The 2009 RAA and the 2013 RAA introduced new types of compliance sanction including suspension and other types of punishments that would come into play if a registrar was found in breach of a policy and in order to get them to correct their behavior before they were de-accredited.

And so I think that what we determined as a working group was that this charter question asking for specific IRTP penalties was probably no longer needed.

And so the first note here is the working group reviewed all comments on this recommendation that were received and all comments were supportive of this recommendation and there have been no changes to these recommendations.

I think we can strike of this recommendation because we say of this recommendation and then these recommendations. So we can just say as all comments were supported comma the group made no changes to these recommendations.

Okay, green checkmark from Lars. So then we'll move onto recommendation number 15. So working group recommends that no additional penalty provision be added to the existing policy.

The penalty structures traded in the 2009 and 2013 RAA - I think we're missing an A, are sufficiently nuanced to deal with IRTP violation. Recommendation 15, working group recommends that as a matter of principle GNSO consensus policy should avoid policy specific sanctions.

We I think we were basically unanimous in this idea that the penalties and the policies should be separate. That if you break a policy you are subject to the general sanctions.

And that - and we note here it's desirable that overarching RAA and RA penalty structures be drafted in such a way that ensures uniformity consistency for all policy violations. So that's what we have there.

Any thoughts on this one, I think that this was fairly non-controversial and our public comments received supported that as well. So we'll now move to charter question F, which is whether the universal adoption and implementation of PCP (unintelligible) codes has eliminated the need of FOA's or for FOA's.

Here are our observations; we note here that the FOA is described in Annex E. Let's skip down to the first red part here. The working group found that the FOA has a role in auditing - in the auditing of transfers.

A point also made by ICANN compliance. In that respect the double authorization that comes with the use of FOA's or any domain name transfers is a useless step that can contribute to prevent fraudulent transfers or result in transfer conflicts.

However or still the working group acknowledges that the use FOA's can in some cases also be prevented on the efficient transfer of domain. We should probably clean that up a little bit and just say the OHN in some cases prevents an efficient transfer of domains.

This is especially true in cases such as bulk transfers, mergers of resellers and or resellers and registrars. Okay, so let's say mergers between resellers. So I - we can look on that. Thus the working group determines that for most transfers or most routine or most typical transfers the FOA is an extraneous step.

However in those situations where the transfer is considered to be or is challenged or is disputed - okay so I think we want to say where the transfer is challenged or disputed the FOA is an essential element to establishing the validity of the transfer and the authorization of the registrant.

So I think that we just need some language policy - language polishing here before I move on, we'll to go Arthur.

Arthur Zonnenberg: Hi James thanks, unfortunately I disagree with the content with the wordings of this - these paragraphs, most of these paragraphs actually. Let me try and explain why.

So at first it says that an FOA gives an authorization however an FOA does not uniquely identify the registered name holder. And the only thing we can say with certainty is that the FOA has been sent to the registered name holder address.

Any hacker can log into that email address and confirm the transfer on behalf of the registered name holder. So it does not give a true authorization nor does it prevent fraudulent transfers as it says here.

It may resolve a transfer conflict because a registrar can say, okay look we sent you an email and you didn't catch it or you didn't notice it so the former registered name holder will say, okay I give up the domain name I was stupid or I will slow.

But in essence that can also be achieved by a form of confirmation versus a form of authorization. The entire idea that this FOA is actually authorizing or identifies the registered name holder is simply not true.

My question to the working group is whether we want to use this charter question to improve the user friendliness and user experience and to remove

unnecessary steps to promote or to make more successful the most common case.

Where it is simply not just extraneous but blocking and unnecessary and user unfriendly as well, thank you.

James Bladel: Okay thank you Arthur and that I think echoes many of the contributions you made the to the mailing list and in our face-to-face meeting in London. I know that you have a difference of opinion with the way that the working group has arrived here.

And I think that we can find a way to get everyone on board. I know that (Rob Bolding) - I'm not going to put (Rob) on the spot but I know that he has some thoughts about this as well.

And certainly I have reached out internally to get some understanding from our team on this subject also. So is that - did you want to say more Arthur is your hand...

Arthur Zonnenberg: Well I'm trying to speak on behalf of thousands of registered name holders and with our data in place is that the current fill rate, which is registered name holders giving up their initial order to transfer their domain is in the order of 25% whereas for most ccTLD transfers it's only 8%.

Now in terms of dot com transfers that means about 600,000 dot com transfers fail each year because we're asking three steps. We're asking the domain to be unlocked, we're asking for the authorization code and we're also asking for an FOA, we're asking three steps.

In some cases there is even the 60-day lock, which in IRTPC we are already stepping away from. So what I would advise the working group is to really look to expand this charter question to also look at the domain lock and the 60-day lock and remove them since they do not help security.

Now a registered name holder could always opt in, you know, if they want to have the security but that should not be the default. I believe these measures are anti-competitive and that the large registrars seem to be defending their portfolios perhaps unnecessarily.

This does not give security, this does not give authorization but the email could be some kind of tracing. So the email could have some kind of tracing function, which would help.

The domain lock and the 60-day lock do not necessarily seem to help any security or any authority or any auditing at all.

James Bladel: Okay I see the queue forming here. I've got Volker with a response, I put myself in the queue to respond and then anyone else who would like to weigh in on this topic please enter the queue and I'll put myself at the end, Volker.

Volker Greimann: Thanks James, well I know that I'm - and Arthur we disagree on this topic and this is not just because want to protect any portfolios here. It is mainly because we see that it does offer a certain protection because essentially it requires a potential hacker and that's what Arthur was referring to, to do two hacks.

One of the email account and one of the registrar account and that already becomes very unlikely that the hacker will be able to do that. The last ITP we have already agreed on adding another layer of security as well on the account level that prevents a transfer when the user update has happened.

And that also goes to what Arthur was saying earlier here, if the account has been hacked then the hacker then updates whose data of the email address of the domain name so that the FOA would be sent to him.

He wouldn't be able to immediately transfer out and that also would be one added layer of security. I think it's essentially that a registrar - that the registrant is able to confirm that he wants to transfer out of the domain name.

It is a security function, it might be replaced by a different security function in the future but absent the suggestion of how to replace it with something that the customer has to agree on I don't see that the removal at this stage would be the best choice for the registrants and security of his domain name.

James Bladel: Thanks Volker we note that we've got some green checkmarks from (Aubrey) and (Graham). I wanted to just put my contribution here as a registrar so stepping out of the role as a facilitator of the conversation to weigh in.

You know, as I mentioned after London I had some extensive discussions with our team internally about this - the role of the FOA. There responses very closely tracked the overwhelmingly supportive response that we had from ICANN compliance, which is that FOA's are essential and in fact the only tool necessary to reverse a transfer.

I don't believe we're seeing failure rates as high as Arthur indicated, certainly not in the 25% range but we are seeing certain - in certain cases that transfers are abandoned because of the lack of an FOA and it's unclear whether they're abandoned because of your registrar just gives up or because they were - the FOA's are actually doing their job by buffering out unwanted or unauthorized transfer attempts.

But, you know, we've been kind of dancing - well not dancing, running into this issue through all of these IRTP working groups, which is this concept of domain name security versus ease and speed of transfer.

I note that we have some folks that are regular participants in all these working groups from the after-market and that they have often, you know,

nudged us in the direction of better user experience, better transfers, better, you know, better predictability.

And I think that the recommendations reflect that and I think the policy has improved as a result. And I think that for example the locking mechanisms had been clarified and the burdens have been reduced in the last, you know, in the last few IRTP's.

So I think that, you know, it's not necessarily true that this is - that nothing is being done on this. I think we have seen some incremental improvement. But generally I have to continue to come back to the position that FOA, some form of FOA - now maybe we can clean it up, improve it, maybe send it via to factor text message.

You know, get it out of email something that only a registrant would have or would know. I'm open to suggestions and I think our recommendations could be expanded to accommodate a better approach to FOA's.

But as far as eliminating them entirely I can't support that because I think that as we've seen it's not a, you know, it's a - it's not an abundance of caution it is the only very thin thread that we have if in the case that we have to pull these transfers back.

And I just want to make one other final comment, which is that as a large registrar we believe in fair competition. We have continuously strived to provide I believe, you know, industry standards that benefit all and that, you know, competition is something that happens to me on price and service and technology and innovation and it's not something that happens in policy. So I would just say once for the record that I reject any characterization of my company or other large registrars of using ICANN's policies or policy development processes to protect a market position and I will vehemently push back on anything insinuating that in the future.

So that's my contribution, I will lower my hand now and I see that Berry is in the queue, Berry you're up.

Berry Cobb: Thank you James, this is Berry. You know, I think first and foremost well clearly there is disagreement about this particular recommendation but it's one of those elements where we need, you know, I always support where possible data that supports a particular recommendation whether it's to keep the status quo or to change to some new, better method for a process or a technology, whichever.

And I think up to this point we've, you know, we've discussed it on the phone but I - regardless of whichever way this recommendation goes I think it will benefit that we put some real quantitative data around this issue.

And in general it seems that, you know, we need overwhelming evidence and data that the current process has broken somehow before we can undo something like this because I think there's no doubt by anybody on this call that if we did eliminate the FOA that that would be a very substantial change to the standard procedures that exist in the marketplace today.

So, you know, we've mentioned that there's some data a little bit from GoDaddy and Arthur has provided some and I believe (Rob) has provided some but we need that sent to the list so that it can be embedded into the report but I still don't believe that that goes far enough.

I think what we really need or - and this is just a suggestion and I don't believe that there's any question that registrars are looking out for the interest of the registrants I believe everybody on the call is doing this.

So and this may be kind of a wet blanket suggestion but I'm just kind of curious if we shouldn't put together some sort of survey and take it back to the registrar stakeholder group where we can try to reach out in a larger component about, you know, the first question whether the FOA should be kept or not.

If yes provide supporting detail, if no provide supporting detail and then create a structure of something simple of collecting data and analyzing the failure rates that they see, you know, so many transfers are conducted within the last year, so many failed.

So many failed because of the FOA and then did it fail because it was working as intended or it failed because it - because the registrant was confused. And until we get that concrete data I don't know that this recommendation could or should be overturned.

And then the last thing that I'll state to this and we haven't really gone over the recommendation wording itself but regardless of what happens I do believe that the transfer - we should imbed this into the recommendation that the transfer be updated.

The transfer policy should be updated in a way that does reflect more the current state and the use of EPP whether FOA's are kept or not and that, you know, I think we're kind of upside down in that regard, thank you.

James Bladel: Thanks Berry and I think that we have, you know, it's a good suggestion to have some data I know that we have collected some. I think that one of the responses that I heard internally was that making that distinction between a FOA that's working as intended versus one that's malfunctioning was very difficult to determine because that was sort of like reading the intent of the registrant at the time that they initiated the transfer request.

And sometimes you can later conclude whether or not the transfer was successful but sometimes that's somewhat unreliable. Next step I note that we have five minutes left and I'm assuming that we're going to pick up on this next week. So we'll go to Arthur and then we'll go to Bob, Arthur.

Arthur Zonnenberg: Thanks, I would just like to state that I do not support the complete elimination of the FOA because of the different registrar, registry model in the ICANN gTLD domain names.

And I would also state that the plaintiff transfer prohibitives, the transfer lock is also in our experience according to our end users causing failed transfers as well as the 60-day lock is also causing transfer failures.

So it's not just the lack of an FOA or the registered name holder not understanding, there are many more factors at play here and I would really urge the working group to try and investigate this.

And come to your own conclusions and see whether you support making this policy more simple instead of more - instead of keeping it complicated as it - as many end users, as many of our end users are experiencing it to be right now.

I'd really urge the working group that and yes we'll continue the discussion via email as well because I'd really like to get to the bottom of the arguments. In the end I mean if Volker or James is right and it's - and what they're saying is true then, you know, we will agree with that and support this policy.

But there is too much discussion yet about what is the fact and what is true and what isn't the fact and what isn't true. And I think we should base ourselves on the facts, thanks.

James Bladel: Thanks Arthur and I'll go to Bob and then we'll bring it in for a landing for this week; Bob?

Bob Mountain: Yes thanks James this is Bob for the transcript. I think my just one input is we tread very carefully. There is in prior working groups there were people who fought tooth and nail against any changes that they would perceive would

potentially reduce the security of their domain holdings and make them easier to transfer.

Domain transfers are hard, in IRTPC we went through and did I think 12 different use cases of domain transfers from one to the other. None of it had to do with the technical implementation of FOA it was a lot of it was UI differences from one registrar and the handling of emails.

None of it had to do with the technical, you know, FOA unlocking or anything like that it was really just a similar confusing user experience. But I think there's an element out there who would be very concerned if we were to start messing with the existing FOA in a way where they felt it was going to, you know, reduce the security of the domain holdings.

So I think we - my advice is we tread with caution here and move carefully about anything along those lines.

James Bladel: Thanks Bob that's an interesting point as well. I always assumed that domain investors were interested in portability but I think that that's - it cuts both ways once you have something of value you also want security as well.

So that brings us up to the end of the call folks. We have a couple of minutes left so let me just kind of wind it up by saying obviously we're going to start off here next Monday same time, same channel.

In the interim I note that there's some chat between Berry and (Graham) as far as putting a - kicking off a data collection exercise amongst the registrar stakeholder group.

I think that would be welcome and I think that that's a - that's good. You know, I want to be clear that the transfer process is not user friendly. I have transferred domain names and even after having worked on this policy for

several years I run into problems where I've skipped a step or done something out of order.

And it is, you know, and you would think if there is anybody - well I mean I don't know I don't point myself out to be any kind of expert but you would think that someone as close to this as I am would be a little, you know, would be a little better at affecting a domain name transfer but yet even I have problems.

And so I think that is a testament as to just how complex this process is. I think that we would welcome a refresh or review of some of these issues not just the FOA's but the locking practices, which by the way ICANN just announced a new policy that will go into effect January 31 of next year that will change the registrars implement the client transfer prohibited locks at the registry.

So I think that, you know, will go to some way of addressing this concern. But as someone I think Marika once pointed out, you know, there's not an IRTPE scheduled to pick up some of these issues.

So what we would need to do and it's certainly within the realm of this working group to do so is to note an issues reports and say, we've finished this, we've gone through I don't know 2 1/2, 3 years of talking about transfers.

And the one conclusion that we all unanimously support is transfers are a mess and it's very difficult for people to figure it out. It should be simpler and it should be simpler in such a way that preserves the security.

Complexity and confusion is not security by design. It may have some security benefits but it's entirely a side effect and it may be we could talk about a top to bottom refresh of the transfer policy, process and technology to make it less confusing.

And to bring those failure rates down across the board and, you know, I'm an optimist let's say and eliminate the concept of domain name hijacking as a viable abuse.

But those are conversations for if not another day at least another working group meeting. So I will thank everyone for their contribution I hope that we can continue this conversation on the list this week and I will look to see everyone on Monday when we have our next call, thank you.

Woman: Thanks.

Man: Thanks James.

Coordinator: Thank you everyone for joining, again that does conclude today's conference. Please disconnect all remaining lines at this time.

END