

**Registration Abuse Policies Working Group
TRANSCRIPTION
Monday 12 April 2010 at 14:00 UTC**

Note: The following is the output of transcribing from an audio recording of the Registration Abuse Policies Working Group meeting on Monday 12 April 2010, at 14:00 UTC. Although the transcription is largely accurate, in some cases it is incomplete or inaccurate due to inaudible passages or transcription errors. It is posted as an aid to understanding the proceedings at the meeting, but **should not be treated as an authoritative record. The audio is also available at:**

<http://audio.icann.org/gns0/gns0-rap-20100412.mp3>

On page:

<http://gns0.icann.org/calendar/#apr>

Present for the teleconference:

Greg Aaron - Registry stakeholder group - Working Group Chair

James Bladel - Godaddy Registrar stakeholder group

Berry Cobb – CBUC

Martin Sutton – CBUC

Philip Corwin – CBUC

Faisal Shah – MarkMonitor

Frederick Felman – MarkMonitor

Gregory Ogorek

ICANN Staff

Margie Milam

Glen de Saint G ery

Apologies:

Mike O'Connor – CBUC

Rod Rasmussen – individual

Marika Konings – ICANN Staff

Coordinator: Please go ahead.

Glen de Saint Gery: Thank you. I'll do a quick roll call for you, if you like, Greg?

Greg Aaron: Yes.

Glen de Saint Gery: On the call we have Fred Feldman, Greg Aaron, James Bladel, Faisal Shah, Gregory Ogorek ,Berry Cobb, Martin Sutton, and Phil Corwin.

We have apologies from Rod Rasmussen, and Mikey O'Connor. And for staff we have Margie Milam, and Glen de Saint Gery. Thank you very much Greg.

Greg Aaron: Thank you Glen. Okay well I hope everybody had a good break. We had a - good discussions of the initial report at Nairobi.

A couple of members were there in person including Martin and Berry and then others of us joined in through remote participation.

And a lot of the people who made comments at the public fora, some of them also submitted public comments to the message board. And we'll be discussing all of those things over the next couple of weeks.

What we have to do is basically get our final report into shape in April and May so we can submit it before June 4. That's the deadline by my calculation to have it ready for discussion at Brussels.

There are a couple of ways we could do this. And Margie correct me if I'm wrong, but my experience has been that the summary of public comments is often inserted into the report. And that's what we'd did for instance in the last working group I was in which was the Fast Flux Report.

And then we also can go through the comments. And we can mark up the report in additional places however we feel necessary.

As far as process Margie, is there anything you think is noteworthy?

Margie Milam: No. I think that's right Greg. We have to look at the comments as a group to see if that somehow changes some of the conclusions or the, you know, the statements that are made in the report. But I think you had described it accurately what our next steps are.

Greg Aaron: Okay, so what we have is that summary by Marika. And my first suggestion is if anybody has any questions or comments about that we should post those up to the list so she can see them.

And if there's anything major that was missing for example out of that summary we should point it out and maybe tweak it.

But one thing I think we should do is then take that section of text, make it an additional chapter in the report. So does that sounds okay to everybody?

I'll take that as yes.

One other thing we can do is we should - my suggestion is to go through all of the comments individually.

And then that's going to lead to some markup of the initial report in various spots. If we need to make corrections we can just make them in the document.

If we want to have the additional discussion of something that somebody has said, you know, we can have a little heading on each paragraph in each section of the paper and say public comment. And then we can write about what people said here and there.

So I think it would be a good idea to go through all of that may be the general comments first and then all of the specific comments.

We're probably going to see several themes emerge as we work through the comments. I think it's probably important to read through all the individual ones because some people made some extensive comments and have some subtle points. And in some cases I think people made some things that will need to be either corrected or updated.

So how do you want to do this? Do you want to go through the general comments first or should we just try to go through the specific statements? And I'm wondering if that's going to lead us through discussion of the same

thing again and again and again. Any comments? Don't speak all at once.
James?

James Bladel: Hi Greg, James speaking. And yes I'm just thinking that if we organize the comments by forum or by submitter that we will as you mentioned, kind of run the danger of going over the same topics over and over.

Whereas, if we had them organized by topic or by the themes that you mentioned will probably emerge, then I think we can address those a little bit more efficiently.

Okay, anyone else?

Berry Cobb: This is Berry. I second that.

Greg Aaron: Okay, all right. Well let's go through Marika's document first since she has (subtly) tried to hit the highlights of each topic.

Her first part of her document summarizes who made comments. Section 3 says just general comments. That's a fairly cursory section.

I don't know if there's anything in there you guys want to talk about. That's Section 3 summary and analysis general comments.

If nothing, let's move into the scope and definition section. And this summarizes what the various commenters said.

First it says that the registry stakeholder group didn't see any security or stability issues. That's specifically a reference to some contractual language in various contracts.

And it said distinction between abuse and use - I'm sorry registration abuse and domain name use abuse is important.

GoDaddy was next, said ICANN's important as a cooperative stakeholder, not as a regulator of anti-abuse activities and recognize limitations of the scope of policy development which do not include the manner in which domain name is used.

But GoDaddy recommends avoiding advancing recommendations that lie outside the purview of existing contractual relationships.

ICA agrees with in general with the consensus definition of abuse. It notes that it's important to differentiate between registration and other domain abuses that are within the purview of ICANN policymaking versus illegal and illegitimate uses.

So, again the - it looks like the use and registration issues -- registrars stakeholder group recommends that the RAP should determine where ICANN's policymaking boundaries extend with respect to registration abuse issues and use issues.

And it believes that the RAP considered a variety of domain name use issues that are outside ICANN's mission and the policymaking boundaries such as gripe sites and malicious use of domain names.

PBUC agrees with the definition in relation to distinguishing registration abuse versus domain name use abuse. It proposes to resolve this debate within the GNSO Council other constituencies and ICANN staff as appropriate and enhance this section of the initial report to define this as a recommendation slot and denote the consensus outcome by RAP working group members.

So that's it for the scope section. Berry I have a question about the CBUC notes. Can you hear me okay?

Berry Cobb: Yes.

Greg Aaron: What does - it says define this as a recommendation slot and denote the consensus outcome. Can you explain what that means? I'm not sure?

Berry Cobb: You know, perhaps that's kind of confused with the definition itself. Where I was going is the theme of the topic of registration use versus use abuse - I'm sorry registration abuse versus use abuse is pretty prevalent.

And my thought was that, you know, we can try, you know, perhaps we can put this up as a standalone recommendation that we can take to the council as, you know, a way forward to try to resolve the debate so to speak. But it's not, you know, it's just merely an option that we can maybe consider.

Okay. One thing I think is missing from this section is that the CBUC said let's see, where is it? I'm looking in the detailed section. Hold on a second.

Berry Cobb: And Greg this is Berry. You'll have to forgive me. I'm driving right now so I'm kind of flying blind in reference to what things you may be looking at and that kind of stuff. But I'll try to answer whatever I can.

Greg Aaron: Okay yes, I'm looking in the detailed CBUC document. The CBUC said a domain name cannot be used unless it is registered. Therefore any abuse of a registered name is registration abuse.

That actually - does that - that seems like a good encapsulation of that constituency's position.

Berry Cobb: That is correct. That's - I won't take specific credit for it. I believe that is a point that Mike Rodenbaugh has been trying to drive home in terms of the debate around this issue. And that's why it's included in the - (in terms) of statement.

Greg Aaron: Okay. I would actually - that's actually that seems like a good crystallization of that constituency's position on this topic. Should that therefore go into the major summary?

Berry are you there? Okay. I think we've lost Berry for the moment. But I would suggest adding that into the summary statement.

Martin Sutton: Yes Greg this is Martin here. Sorry I'll just jump in. I think that's right. It would be useful to promote that in the summary and analysis on the scope and definition section.

Greg Aaron: Okay, anyone else?

Okay hearing none, James go ahead.

James Bladel: Hi Greg, James speaking. Thanks. And so I read through Marika's summary, particularly this section about the scope and mission of ICANN.

And as I read through numerous of the, you know, a number of the comments submitted, although I'll admit that I didn't read them all but I definitely read through the CBUC and the ICAs, but I just as I'm thinking a little bit during our break about this issue of scope and how we keep running into it -- we've talked about it for going on now a little over a year -- and, you know, I'm just trying to think of ways that we can bring it to some sort of a closure.

And I think I've personally arrived at the conclusion that, you know, this issue is - it goes beyond this particular group. And it's starting to touch into a lot of aspects of the work going on at ICANN.

It's probably beyond the council to solve quite frankly. It's probably beyond the board to solve. I mean this is starting to touch on an issue that is - it defines the nature of ICANN.

It very much, you know, touches on some of the debates and controversies around things like the JTA and the AOC.

So I'm wondering if the most appropriate action for this group to take is to, you know, note where we've encountered the scope issue.

Define the two or maybe there's more than two, maybe three or four positions that have been encountered or I'm sorry, expressed on the working group.

And then, you know, relay these to the council with a recommendation that look, we're going to continue to run into this until we get some clarity.

And, you know, honestly I'm not sure that the clarity can come, you know, from the council or the board. I think it's going to have to come from, you know, almost from external to ICANN.

So, you know, I don't think this is a problem. I think we get into a problem of kind of a recursive self-definition where ICANN is defining its own mission and scope. And I don't know that that would be something that would be controversy free.

So anyway just putting that out there as my thoughts on this issue and how we should proceed so that this group doesn't continuously kind of go back to the (same), to the quicksand and get stuck. So...

Greg Aaron: Okay thank you James. I see Margie's hand.

Margie Milam: Yes. I have a suggestion too because, you know, we've all been grappling with this issue of scope. And I don't disagree with what James is saying on, you know, it's so hard to draw the line as to what's in scope and what's out of scope.

But just one of the things, when we move as part of the PDP process from, you know, the initials issues report to the actual, you know, next steps, the issue of scope gets revisited over and over again because it all depends really on where the working group, you know, ultimately ends up.

So, you know, as the issues report was drafted very early on the, you know, the staff members that wrote it didn't have yet a concrete idea as to what, you know, where the working group was headed.

We now have our initial report that has various, you know, types of abuse to be considered at least as part of this registration abuse concept.

And so as we start getting more specific on the kinds of policies that we want to address then, you know, then it's appropriate to relook at the scope issue on a, you know, issue by issue basis.

Like let me give you an example. You know, there's recommendations related to the UDRP. Well I think most people would say that UDRP yes, that's clearly within ICANN's scope I mean we already have a policy in the book just cleaning up an existing policy that's, you know, that's not as difficult as a scope issue to, you know, for people to reach consensus on.

So my suggestion would be, you know, we've got our list of however many, you know, types of abuse. And then we look at each of them on a scope basis as opposed to a general statement about registration abuse.

Because it is very hard to apply it in a general sense, you know. From a general point of view it's much easier to look at it from a very specific issue point of view and then it becomes a little easier to make those, you know, those, you know, judgment calls on whether it's within scope or, you know, out of scope.

Greg Aaron: Yes.

James Bladel: Greg this is James.

Greg Aaron: Go ahead.

James Bladel: Just to respond, I think that's an excellent idea Margie. Do you have any concerns however that if we took it - took the issue, you know, by topic like that, that we might inadvertently insert some inconsistencies in its application or I think if we could stay away from that it's a really good idea and it's probably how we should proceed.

(Greg Ogerette): Well this is (Greg). One of the jobs we were tasked with was to look at specific issues and then figure out whether they are in scope or not.

Now in many cases we have done that with so much difficulty. Again UDRP for example very clearly within GNSO Council making policymaking scope, you know, dispute - domain dispute policies are included in the contracts. That one's very clear. We have solved that problem. It's in scope.

And some of the other topics, you know, we've made consensus decisions yes, it's in scope or no it's out of scope and we'll move on to the next issue.

It seems to me the one thing that has elicited a lot of disagreement is the malicious use aspect. Is that really what we're talking about or the use versus - or put it another way, the use versus registration issue? Is that what we need to concentrate on?

Fazal Shah: Hey guys, this is Fazal. I mean I guess I'm not sure if it's just that other - I mean outside the fact that you're looking at whether we're taking a broad view or a very narrow view.

And to some extent I mean if I'm understanding what Margie's saying, it seems to me like, you know, if we start going down a very narrow view

maybe we aren't pulling, you know - by pulling in registration abuse into this document because we're taking the position that it's, you know, abuse versus registration abuse.

And maybe there - maybe what I'm thinking is maybe that's not what we should be doing. Maybe we should be making a much broader document and then presenting it and letting the forces be - decide whether it's in scope or not. Maybe that's where what we should be doing.

Greg Aaron: Others, anyone?

Well in our document we have a number of abuses we've discussed. Now a lot of them we know are already covered under policymaking scope.

And I also want to comment on a note that Berry sent out the other day. Berry had asked what is the picket fence?

And Berry, that's a colloquial term that's used in a community. But what it basically means is what's within the scope of consensus policy making.

So if you look at ICANN contracts it defines what's within the fence. And there are a list of things. Like it says, you know, dispute - demand dispute resolution is within scope.

So that's why UDRP is pretty clearly within scope or how domains are transferred. Those kinds of things are specifically enumerated.

So that's what the picket fence means. And it's therefore something that we've been discussing since the very beginning back when, you know, Margie gave us her initial presentation almost a year ago -- that kind of thing.

So it's nothing new. It's just a different term for what's in and what's outside.

Did you have any additional questions or comments about that Berry?

Berry Cobb: No. I never meant it as a specific question. It was just kind of bizarre to me that I hadn't heard it up until Nairobi.

And, you know, now I've heard it left and right. And the way that it's used in that context, you know, when I envision a picket fence it's a clear delineation of what's on one side and what's on the other.

And amongst this working group and several realms in policy development it seems that that's not so much clearly the case.

That's why I alluded to my own kind of example in the email. But it's nothing for us to attack here. Thank you.

Greg Aaron: Well yes and the point is in some cases it's really easy to understand what's inside especially if it's specifically listed.

The registration versus use issue is one of those things where people some people think it's inside and some people think it's outside.

Now this group to be clear, does not decide whether something is in or out. That's above our pay grade so to speak.

The council wants our opinions on these matters certainly. And that's why people have voted one way or another about specific recommendations. And that's why we've made certain recommendations at all.

In general it doesn't make sense to make recommendations about things that are clearly out of scope. And it's easy to make recommendations about things that are clearly within scope.

Ultimately the calls about whether something is within ICANN scope or not do get discussed at the legal counsel's office. And ultimately the board does make some determinations about that.

Now beyond that, I'm not so sure. James I think you're referring to other entities outside of ICANN such as the Department of Commerce.

That's so far beyond us. I mean our job is to recommend things to the council. And then they can decide if or when to kick things upstairs.

Consensus policies that the council does want to pass I think Margie the process is that the board does check off of those, isn't that correct?

Margie Milam: Oh yes. Yes so if it comes from the GNSO it'll - the recommendation from the GNSO will go to the board.

Greg Aaron: Yes they have the final check off on it before it becomes an official policy. So that's what our job is.

We're - we don't decide what is it within or without scope. We should express opinions about whether it is or not and then the council has to take it up and they'll make some determinations of their own.

Any additional comments?

Margie Milam: Yes Greg it's Margie. I have a just a little more clarity for Berry. When we talk about the picket fence, the consensus policy issue in the contract, that really relates to provisions in the contract where registries or registrars agree to be bound by policies that are considered consensus policies. And so that's what we're talking about when we talk about picket fence. But that's not the limit of the GNSO council's scope issue.

Just because it's not within the picket fence doesn't mean that they can't look at it. It just means that there may be - it may not be enforceable against the registries or registrars at the same - in the same manner.

And so things like best practices or, you know, whatever codes of conduct or whatever -- other things that aren't mandatory practices can still be considered by the GNSO Council.

It's just that if they're not within what, you know, the picket fence or what's considered consensus policy under the contract then it's not something that the registries or registrars are necessarily obligated to do.

So, you know, the scope issue is quite complicated. And, you know, and it depends at the kind of outcome that the GNSO Council is trying to pursue.

Greg Aaron: Yes. And that's where we went in the case of best practices were dealing with phishing and malware and those kinds of things.

We all agreed that that was something worthy to do. So it ends up being a recommendation for best practices which would be nonbinding.

We didn't as a group get to the point where we thought that those practices should be mandatory. And that was because various members had concerns that it wasn't within the picket fence basically. So we've discussed these ideas in various ways over the last 12 months.

So anyway back to this question. We have the used versus registration issue which is seems to be the big one where there's diversity of opinion and it's a big and complicated issue. Are there other issues about scope which are in doubt?

Not hearing any others, so what do we want to do about this? Do we need to call it out more powerfully in our paper then?

Fazal Shah: This is Fazal. I think we do. I think there's a pretty deep divide in terms of how we're each looking at this registration versus use issue.

And perhaps we definitely need to address it more expansively or maybe succinctly but actually maybe strongly.

Greg Aaron: Okay. So that'll be an action I will need to work on over the next few weeks. But elaborate on this issue and crystallize it more prominently for the council and the readers.

And what I'd suggest is let's also - we'll go through the comments individually that the various people submitted.

Let's also see if there's anything worthy in those comments to work into that collaboration and focus in the paper. But let's put that down as an action item for us all to work on.

Okay. So that took us through the scope and definition section.

As far as the abuse definition it seemed like there was a lot of - in the public comment there is a lot of general agreement that the abuse definition itself was pretty good. Did anybody see any notes to the contrary?

Okay if not, I suggest we move on. I'm going to try to scroll down here past the scope and definition section to the cyber squatting section.

And let me read through the comments or try to summarize them just briefly and then we'll discuss.

WIPO commented, they said that the issue is not whether the UDRP itself can be improved but rather whether a process of this nature is likely to achieve that result.

WIPO said that the basis for including the UDRP in the RAP report is unclear against the background of the new TLD program and notes that discussions occurring within the context of a new gTLD program had seemed to already address the cyber squatting recommendation.

WIPO is of the opinion that rather than seeking to amend the contested UDRP, independent focus on complementary mechanisms would yield more practical results.

The - whoops. I'm having trouble with this document. Hold on a second.

All right, the registry stakeholder group supported the recommendation but it rejects the second cyber squatting recommendation to evaluate the other rights protection mechanisms for the existing TLDs.

GoDaddy offers cautious support for the cyber squatting recommendation for review of the UDRP which is contingent on including a comprehensive review of the UDRP including how ICANN manages the procedures of UDRP providers and development of a formal procedure to oversee the modification of the supplemental rules.

GoDaddy says as far as the new TLD RPMs that should await some practical experience in the new gTLDs.

George Kirikos, our old friend George disagrees with recommendation that the UDRP be revisited biased in favor of complainants who overwhelmingly win. And if it's revisited it should be to address reverse domain name hijacking by complainants who misuse the system.

And George thinks that the group over stepped its bounds and scope because cyber squatting goes into use and it's not a registration issue.

BN, I forget who BN is. But BN said that a review of the process would not be welcomed and as that review of the UDRP should be balanced and based on actual data.

CADNA supports the recommendation to review the URP - UDRP and notes that it exists as a reactive rather than a proactive means of combating cyber squatting.

CADNA suggests that RAP consider recommending a PDP to prevent cyber squatting before cyber criminals can register infringing domain names.

CADNA considers the recommendation to investigate how RPMs can be applied to existing TLDs to be premature.

ICA supports a recommendation to review the UDRP but only if the PDP is broadly comprehensive. It does not have an objection to PDP on RPMs but believes that the effort if undertaken should be coordinated, a comprehensive UDRP PDP and supports any PDP on comprehensive UDRP reform to consider the establishment of a cure period for minor transient or unintentional infringement caused by third-party placement of PPC advertising links. That's pretty specific.

The registrar - a stakeholder group says it's premature to talk about the new gTLD price protection mechanisms for the existing gTLD space.

The IPC supports the alternative recommendation to initiate a PDP on RPMs. And commercial and business user constituencies supports review of UDRP. And it recommends the initiation of a PDP on new rights protection mechanisms.

So that's the summary. So it's various and I think it's fair to say reflects differences of opinion that were also stated in the group itself.

So comments and thoughts on the cyber squatting summary?

First of all is there anything that's totally missing from the summaries?

And we can revisit that later too. But anyway I want to open up the floor.

James?

James Bladel: Hi Greg just wanted to point out that I think it was - who was it that mentioned that there was the idea of a cure period? Was that CADNA or George or ICA?

Greg Aaron: Cure period says...

Martin Sutton: The ICA.

Greg Aaron: ICA.

James Bladel: Okay. I just wanted to point out that is the first time I've heard of that particular idea. And I thought that was intriguing and possibly worth discussion - discussing for inclusion in our final report.

Greg Aaron: Okay. Thank you. I see Phil's hand.

Phil Corwin: Yes well I just wanted to chime in on that. That was a suggestion that came from one of our members reviewing our initial draft of this letter.

And it just goes to the point that that some domain portfolio owners may have hundreds or even thousands of domain names under management. And it's not practical for them to review each and every page every day.

And sometimes with no intention to infringe the third party ad provider runs something that they didn't want and that might appear infringing or be infringing.

And so it's not trying to excuse people who are trying to, you know, who are intentional cyber squatters. But sometimes they'll be exactly what we stated, a minor transient and unintentional infringement, you know, for a day or two caused by someone other than themselves.

And we'd like to see - I don't know if I envision that for this group to do that, but certainly if we'd like to see a comprehensive UDRP, PDP. We've been calling for that for more than a year that it takes ten years of experience and works a change in the UDRP from everyone's perspective. And hopefully that would become a part of it.

Greg Aaron: Okay, got it. I mean this group wouldn't get into the merits of such a cure period. That would be for a successor group if we have the council approve a PDP for the UDRP. But this gets it on record as a topic absolutely.

Any other thoughts?

I'm going to raise my own hand. Sometime in the next few weeks will go through WIPO's comments.

I thought they were - I think they bear - need to have some scrutiny. One of the things I think that people are pointing out is that there is the policy which people have raised questions about.

There's also the implementation of the policy which is a little different but is something that people have also raised questions about.

And we might want to make that distinction and call it out a little bit more in the report. WIPO is one of the parties that executes the policy.

And so we need to look at their comments and take them into account because they're a major provider and they have experience.

But on the other hand they also said we don't want to be reviewed. And I have some personal opinions about that. Martin?

Martin Sutton: Thanks Greg. Yes the WIPO comments I've read through and I agree we need to probably go through them in a bit more detail.

I can understand that they're quite defensive as well of the UDRP and how it stands at the moment.

I think one of - I'm just wondering if we need to have a look at rephrasing slightly the recommendation.

Because I think the point here was that there needs to be some research to show where the UDRP still may show inefficiencies or unsuitability for resolving cyber squat cases. Because it is still onus on trademark (con). It is expensive. There is no problem for the actual registrant who can just hand it back and say thank you very much and I'm off.

So I think it is important to focus on what one of our recommendations was which is to have a look at them, you know, where does it fail?

It's I think, you know, perfectly acceptable policy that is pretty well used. But certainly I don't and lots of other brand owners don't use UDRP to sort out the bulk of their domain registration abuses. So I do think we may need to have a look at some of the wording in the recommendation.

Greg Aaron: Thank you. And by the - is there - do you want to take a look at that and maybe on the list call out where the current language might need to be tweaked?

Martin Sutton: Yes sure, I'll have a look at that one.

Greg Aaron: I think as far as an ICANN process, if the council accepted our recommendation to do a review of the UDRP, one of the first things that would happen would be an issues report to lay out some of the history and so forth.

And then the successor working group would have to do as you say, do the research to understand what the issues are and to what extent.

I think we have recommended that that needs to be done or various parties have said you have - we have to do a good job of understanding what the issues are. And that would be for the successor group to do.

Martin Sutton: Yes, that's fair enough.

Greg Aaron: Yes. Phil I see your hand up.

Phil Corwin: Yes. Yes I just wanted to in regard to WIPO, I found their comments somewhat self-serving overall. But and again I don't know if it's a mission of this group, but our position at ICA would be that the most important object of any UDRP reform over and above any specific changes in the UDRP process would be to put the UDRP providers under contract with WIPO.

A lot of people just became aware in the past year during the new GTLB debate to their great surprise that none of the UDRP providers are under contract.

I think it would - everyone who has concerns about UDRP whether they're registrants or rights owners would want to see that to define exactly what they can do, what they can't do, what their obligations are, what mechanisms ICANN has to make sure they're doing things right and some enforcement tools other than the blunt force instrument of withdrawing accreditation which is unlikely particularly from organization like WIPO.

And so we'd like to again, I don't know if it's this group's within the scope of its mission to talk about putting them under contract.

But and by the way, I've talked to someone at another UDRP provider other than WIPO and they would like to be under contract. They're not really sure sometimes where they might get in trouble with ICANN.

It's all - the relationship is very ill-defined. And here you have accredited arbitrators who have been given this authority by ICANN to decide whether or not folks are abusing their domains and that are subject to losing them. And yet they're under no uniform standards.

So I think going forward that's something we'd like to see very much. Maybe that's what WIPO doesn't want is to be under that type of authority.

Greg Aaron: One of the things that the initial report mentions I think pretty briefly is that issue. I'd have to go back and look.

It would certainly be appropriate to have the reports say that kind of thing that, you know, people in the community have raised the issue should they be under contract or not?

What does that mean for administration of the program and what does it mean for results, et cetera, et cetera?

That's part - and one of the related questions was some of the providers have been changing their rules of procedure. Does that - you know, those might be related issues.

Is it appropriate for us to note those things in our report? Whether or not they should be under contract might be a question for a successor PDP.

Because that probably gets into a lot of interesting legal issues that that group might be able to explore better than us, might be appropriate for later. So that's my personal opinion.

Okay any other thoughts on the cyber squatting section? It sounds like we definitely have some more work to do there.

And we'll get into some details as we go through the individual comments by WIPO and other parties.

If not we'll move onto the next thing which is front running. And the summary is as follows. George disagreed with the recommendation and wanted some - he suggested some preventative measures but I haven't read what those are.

BN agrees that without any evidence this topic is a waste of time and resources. CADNA was disappointed to see the group refrain from recommending action to solve front running and recommends active investigation to seek out the root.

PBUC supports the recommendations. And I think that's it. Some of the commenters didn't comment on front running I guess. Any thoughts on front running?

Okay. Hearing none we can move onto the next topic which is gripe sites and deceptive and/or offensive domain names.

The registry stakeholder group supports the majority position and provided some reasons why. George Kirikos considered the issue out of scope.

And BN says any criteria that would prevent registrants from registering domain names would be a danger to freedom of expression and does not have to do with registration and is therefore out of scope.

The IPC proposed alternate recommendations. One, given that the protection of children is a paramount policy concern for all the members of the ICANN community RAP recommends the addition of a PDP for an issues report.

How - members of the IPC who are on the call, how is this different from our previous discussions?

Fazal Shah: This is Fazal. I'm not sure I understand what you're saying.

Greg Aaron: Well we discussed whether or not to - whether one this issue was in scope for policymaking and specifically within consensus policy making.

And then we basically declined to recommend a PDP. This seems to be just - it - how is this recommendation different from the ones we've discussed in the past?

Fazal Shah: Okay I guess the - to some extent your calling out specifically the issue of its affect on children, right?

The potential danger to children that maybe we haven't really focused on that but we focused on more of the gripe site issues and not specifically on, you know, how it could affect, you know, minors.

Greg Aaron: Okay. All right, Fred go ahead.

Frederick Feldman: Yes I can check with the IPC and (Steve) to see directly with what he was getting at there if you'd like.

Greg Aaron: Sure ,feel free. James I've seen your hand but don't see it any longer. Did you want to comment?

James Bladel: Well I don't mean to stir the pot here Greg on a Monday morning, but I think that there's an implied assumption there that protection of children is paramount policy concern for all members of ICANN community.

And I think that that's a laudable and noble thing to do. But I just - I have an issue with the idea that that's kind of the goal of ICANN policy or one of the goals of ICANN policy.

I mean I think that ICANN should be really kind of neutral and with some of those regards and really just focus on security and stability of the DNS system.

I just think there's too many, you know, that's a noble thing to start recommendation with. But I think the implications of that downstream are a little concerning.

Greg Aaron: Okay. Thank you. Okay, the second IPC recommendation is ICANN's agreements with registries and registrars should explicitly state that registries and registrars are explicitly empowered but not obligated to develop reasonable policies internal to each contracted party designed to prevent the registration of deceptive or offensives strings.

So that seems to be a variation of something we discussed previously. There was a recommendation to allow registries to develop best practices to deal with those things. So this one seems like a variation of that one.

And then there's some commentary on the second recommendation. Any additional thoughts on that or deceptive domain names, et cetera in general?

Fazal Shah: Yes. This is Fazal. I guess the only thing I wanted to comment on -- and this is in connection with the whole gripe site issue and this is not obviously tread on any freedom of speech issues or anything.

But I think one of the - I mean one of the reasons that it actually originally came up in terms of even dealing with gripe sites was Greg you mentioning an article that said that the decisions coming out of the UDRP were being inconsistent and being handled inconsistently.

And therefore maybe what has to happen is there has to be some more consistent decisions based on some criteria that we can actually be comfortable with where we know that this is freedom of speech and, you know, it's, you know, it's going to be handled as such as opposed to something different.

So the fact of the matter is if, you know, we're recommending that the gripe sites that there be some UDRP that handles gripe sites in a consistent manner that doesn't tread on freedom of speech.

I think I guess that's kind of where I thought we were going. But it's kind of gone to the point where I think everybody thinks that maybe it's going to start treading on freedom of speech issues.

And I guess that I'm curious as to what is that what I think is on this call or what - you know, how do we handle that?

Greg Aaron: Well in our section of the report on UDRP we - we're pointing out some general issues with maybe a lack of uniformity in the decisions and also for want of a better term, case history that's or precedent that's developed over the years.

One thing we could do is I mean if that's a UDRP issue, put it in the UDRP section.

Fazal Shah: I think that might be the best way to handle it is bring it all together as a consistency as trying to attempt to achieve some consistency in the decisions, right?

Greg Aaron: And for example consistency related to gripe sites?

Fazal Shah: So if somebody's using it to complain about a particular company well I mean that's, you know, freedom of speech right?

And to some extent if, you know, it could be a burden cost-wise if people are trying to tread on freedom of speech issues.

So I'm just trying to say I'm - well I guess what was initially intended was more of a consistent criteria around the whole gripe site problem.

Greg Aaron: Yes. Because I think what we said in our paper was that UDRP is a good way to deal with gripe sites because there's good process in the UDRP.

But maybe we should call out more effectively in our UDRP section that one of the issues that comes up is consistency in this kind of a - in these kinds of topics. Gripe sites do come up for adjudication pretty regularly.

Fazal Shah: Yes. So that's right. So looking - maybe look at some topics as you're saying Greg and maybe gripe site being one of them and finding out, you know, what where - whether there are inconsistencies.

Because, you know, obviously different examiners are going to rule differently. So try to come to some consistency and then maybe trying to incorporate that into the UDRP.

Greg Aaron: Okay, all right. So gripe sites would be one area where consistency could be examined. If there are others maybe we should mention them too as good examples. So if you think of any now or later let's get those down on paper.

One of those things about consistency I noticed is UDRP requires - and the language says that it requires bad faith and use of the domain name.

But I think our paper said that the UDRP cases have often been decided without the domain name being used. So what does that mean?

There's I think part of the issue is that people have been pointing out over the years is there's case history built up.

And in the law use case history as precedent and is - what have we got with the UDRP? We've obviously got some sort of a case history but is it consistent? So we can work on that language a bit.

Any other thoughts on this section of material? By the way we're at 11 o'clock. Do you want to continue for the next half-hour? Is that okay?

We're making pretty good progress. I'd recommend it unless there are any - there's anybody who has to drop off. Fred do you have to drop off or do you want to continue?

I'm going to have to drop off but I think Fazal, Fazal are you able to stay?

Fazal Shah: Yes.

Greg Aaron: Okay cool. Thank you. Okay so if no more questions or comments about gripe site section, the next section is fake renewal notices.

And just briefly the public comments were the registries said that this may be an issue with resellers and the registrars being responsible for the resellers.

George considered better education as the obvious solution as well as better security at registrars.

BN supports the recommendation and says I would welcome any actions or proposals to address this.

ICA supported referring the issue to the compliance department in ICANN as well as the initiation of a PDP on the subject and urged that it include a focus on the continuing problem of domain theft.

And the CBUC said that as far as recommendation one takes notice of the strong consensus and supports the UA.

And it notes that the issue of slamming should be further explored and perhaps separated as a standalone topic.

And Berry also sent around some notes the other day. Berry would you like to comment?

Glen de Saint Gery: He's disconnected.

Greg Aaron: Yes I think we lost Berry. Thank you. Okay well Berry that - and my recollection may be imprecise, but I think Berry said fake renewal notices of slamming may be two different things

And he gave the example of people who write to you and say, you know, you're corresponding demand in another TLD has not been registered yet for example and you ought to register it and of course the person who's running to you wants you to spend perhaps a large amount on that domain name.

So that's about new domains rather than existing domains for transfer. How do we want to handle this if at all? Slamming would be a related but new topic.

And is anybody really interested in getting into slamming? I say this in Berry's absence unfortunately. But Martin?

Martin Sutton: Thanks Greg. Yes I mean I get these every day from around various parts of the HSBC group, nuisance approaches mainly from Asia registrars or resellers.

So the general idea is to ignore them and not to even bother responding. But it is a real nuisance. And I can appreciate it if you send a few of them and have that kind of approach established.

Although I'm pretty sure that at local level some of our businesses may still be tempted to register domains that somebody is pressurizing. It's just basically a pressure sale.

But if there is anything that could be done that would be great. So I wonder if there is something. I really don't know because where do you send these things to? Who can help? Who is bothered about it?

I really - I'm struggling because it would be nice to eradicate it. And if it is stuff being generated by accredited registrars then I think there should be something taken up by ICANN on that.

But the scale and the issues of trying to collate all of that information I wouldn't know how to go about it.

Greg Aaron: Thank you Martin. James?

James Bladel: Yes hi Greg. This is James speaking. And I have to admit, I wasn't familiar with this when we - when I first saw it come through in the discussions in Nairobi and the comments.

So I looked into it a little bit. And I think if we can define it as distinct between as a separate issue we should treat it as such.

But one thing that I would just point out is that it's not specifically, you know, addressed in our charter.

So would this just then we would just say we found this new issue under the process of cataloguing and defining different issues and that we would just incorporate it there?

I guess what I'm saying is it's not too late then to insert a new topic, is that correct?

Greg Aaron: I guess not if we're willing to undertake it.

James Bladel: Okay.

Greg Aaron: I had to raise my hand. This is Greg. I've seen some of those notices myself. I've gotten them and my company's gotten them.

And the ones that I've seen say we're a registrar reseller. And somebody has contacted us to register a variation of your domain name. So we want to give you a chance to register it first.

And of course that's probably just a lie. And nobody's contacted them. It's clearly a marketing - high-pressure marketing tactic and it's a little deceptive.

It - I've never seen it from a registrar. I suspect that the people who sent me those notices are resellers. It - to me it represents a lot of the same issues as the fake renewal notices which is you've got a party out there doing something which is slimy if not downright deceptive. And they're trying to make money off of it. And I think my suspicion is that it's primarily done by someone who's a reseller.

So it brings up the common question of well what if anything should ICANN do about it and what would be the right way to do it?

And I think our group was not able to - I mean we weren't really sure what to do about it the fake renewal notices.

It's an annoyance at the very least. And in some cases people get victimized by it but what do we do?

Is it bad enough to make a recommendation about? And what would the recommendation be if anything? Martin?

Martin Sutton: I haven't got the answer Greg.

Greg Aaron: Well I was hoping you would have the answer.

Martin Sutton: Well I think it's been hinted at a couple - I mean George, our friend George and as Berry. I think in response to Berry's note Rod also gave some feedback which is I think boils down to education and awareness. How do you reach everybody? Don't know.

But at least from a starting point registry, stroke registrars could have some education pages linked to generic information or warnings about these types of things going on.

So I don't think there's anything that's going to stop it. It's just a matter of saying it does exist. Hope you read this before you get hit by one or that you're querying this after you've received a suspicious email or letter. And don't take any inappropriate action following that.

So it may simply just be a matter of trying to raise that awareness and education.

I think it boils back down to some of these issues which is where do you go with this sort of stuff? There isn't a single home for it.

And we've got a string of these sort of issues that are somewhat tied either loosely or strongly in certain circumstances around ICANN and that community. So perhaps that's where we start looking at first and foremost.

Greg Aaron: Okay anyone else? So does anyone want to take on the issue of slamming? And do we want to change in any way our recommendations as - about break renewal notices?

Well let me ask this question first. Maybe it will be a little more clear. First do we want to try to incorporate slamming into our report? Are there any strong feelings either way?

Not hearing any strong feelings, is there anyone who wants to - so let me ask it another way. Is there anyone wants to volunteer to create some material for the report?

Martin Sutton: I'll pick that up with Berry because he's already got a fair bit of information he's already compiled. We just probably need to jigger that around a bit to propose some information to add into the report.

Plus also then have a revisit at that stage to the recommendation to see if there's anything in addition to the compliance route that's recommended for the fake renewal notices whether we should incorporate something amongst education awareness. Does that sound reasonable?

Greg Aaron: Personally -- this is Greg -- I think that sounds good. I can note that as an action item.

Martin Sutton: Yes okay.

Greg Aaron: Okay. And we probably have time for one more item which is domain kiting. And George said that it's no longer really an issue given the add grace period penalty.

And the CBUC supports the recommendation that our group made. So that's pretty straightforward.

The next issue is malicious use of domain names. Let's see how much we have here. My recommendation actually, let's keep - let's pick up there next week because that's a half page worth of stuff.

In the meantime what I'd like to do is just confirm our schedule for our next meetings. Since we have to wrap-up in about a month and a half my recommendation has been to meet weekly.

So I'd like to poll you on this call. Does this time slot continue to be okay? And should we meet for an hour and a half as we have in the past?

I see checks from (Greg) and James and myself. Fazal how would that work for you, continue at this time slot?

Fazal Shah: That's fine with me.

Greg Aaron: Okay and Martin how about you? Martin you may be on hold.

Martin Sutton: You're right I am on hold. I'm sorry I missed that. What times were you proposing?

Greg Aaron: Meet at the same time.

Martin Sutton: Yes, yes, that's fine for me.

Greg Aaron: For an hour and a half. Okay great. And Phil says that's okay. So let's go ahead and continue on that schedule then.

We're closing in on 11:30. I think it might be easiest just to pick up next week because the next two things are malicious use and Whois and those got some substantial comments.

So I suggest we actually adjourn a few minutes early if that's okay? Does anybody else have any thoughts?

Martin Sutton: I agree.

Greg Aaron: Okay, good. Well let's save ourselves ten minutes from our busy day and pick up again at 14:00 next Monday.

And we - we're almost through the initial summary. So next week we'll then - my proposal is let's finish that up and then we'll start working through the detailed comments. And we can just take them in the order they were received perhaps. And I think we're making some pretty good progress.

So thanks by the way to Martin and Berry. They were on hand in Nairobi. We saw you on screen.

Martin Sutton: Oh did you?

Greg Aaron: It was like watching television. It was like watching C-SPAN or Parliament or something actually.

Martin Sutton: That exciting.

Greg Aaron: Yes, you both looked good. I had never met Berry so I get to see what Berry looked like.

Martin Sutton: Well you should see him in Brussels. Is - are you joining us all in Brussels?

Greg Aaron: I think Brussels is going to be a very popular ICANN meeting.

Martin Sutton: I think it is, yes.

Man: Yes.

Greg Aaron: So I now I'll definitely be there.

Martin Sutton: Good. Okay.

Greg Aaron: All right, well thank you for your time and your participation. And we'll pick up next week.

Martin Sutton: Cheers Greg.

Man: See you.

Greg Aaron: Take care everyone. Thank you.

Man: Bye-bye.

Woman: (Unintelligible).

Glen de Saint Gery: (Barbara)?

Coordinator: Yes hello. Just one moment.

Glen de Saint Gery: The call is over. Thank you.

END