

**ICANN
Transcription
Thick Whois PDP Working Group meeting
Tuesday 20 August 2013 at 14:00 UTC**

Note: The following is the output of transcribing from an audio recording of THICK WHOIS PDP Working Group call on the Tuesday 20 August 2013 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/gnso/gnso-thick-whois-20130820-en.mp3>

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

Attendees:

Alan Greenberg – ALAC
Volker Greimann - RrSG
Carolyn Hoover – RySG
Steve Metalitz - IPC
Mikey O'Connor – ISPCP
Marc Anderson – RySG
Frederic Guillemaut – RrSG
Avri Doria – NCSG
Tim Ruiz – RrSG
Amr Elsadr - NCSG

Apologies:

Susan Prosser – RySG
Marie-Laure Lemineur – NPOC
Don Blumenthal - RySG

ICANN staff:

Marika Konings
Lars Hoffmann
Berry Cobb
Nathalie Peregrine

Coordinator: Pardon me. This is the operator. I need to inform all participants that today's conference call is being recorded. If you have any objections, you may disconnect your line at this time. And you may begin.

(Nathalie Peregrine): Thank you very much, (Laurie). Good morning, good afternoon, good evening. This is the Thick Whois working group call on the 20th of August, 2013.

On the call today, we have Mikey O'Connor, Alan Greenberg, Volker Greimann, Mark Anderson, Tim Ruiz, Carolyn Hoover, Frederick Guillemaut and Steve Metalitz.

We have apologies from Marie- Laure Lemineur and Susan Prosser. From staff we have Lars Hoffman, Marika Koning, Berry Cobb and myself, Nathalie Peregrine. I'd like to remind all participants to please state their names before speaking for transcription purposes. Thank you very much and over to you, Mikey.

Mikey O'Connor: Thanks Nathalie and thanks all for joining us today. We'll do the usual thing and stop for the SOI and the agenda. I'm going to slip something into the agenda. I want to just mention that I'm going to send along a post-working group survey that we've developed in the SCI for you all to test, so I've got an addition to the agenda.

Is there anything else that people want to mention, changes to statements of interest or tweak the agenda? Okay, I think we'll just dive right in. As you can see on your screen, quite a few of the comments we're agreeing with are initial report and supporting it in one way or another.

And as you can see now on the draft that's in front of you, we've gone ahead and filled in quite a few of the responses with the thank you very much for your support and the fact that we don't really have a recommended action.

I think where things left off - which is essentially on Page 3 of that document, I think I'll leave it unsynched so you can drive around for yourselves, but one of the things that's entered the document is some of the staff comments.

And we had a little bit of the conversation about this on the list. And I think Steve raised a really good point which is probably in the future, it would be a good idea for us to try and figure out a way to get these staff comments in through the public comment cycle in such a way that they become a part of the conversation.

I think what's perfect hindsight, I probably could've been clearer about that when we were talking about it. But I also don't think that it's a good idea to run these through it now.

I think that's complicated and so unless - and (Steve), I'm sort of doing this for you, but for anybody else, unless there's really strong objections, I think I'd like to just pick these up in this conversation

In many cases, I don't think that they have a material impact on the report. And I think that sort of retrofitting these in through the public comment cycle could get a little bit confusing and complicated, et cetera. But let me go to Marika and then Alan and then anybody else who's got any thoughts about this, and then we'll sort of take it wherever we wind up from there. Marika, go ahead.

Marika Konings: Yes, this Marika. It's just to know that I'm (going to start with) with the list as well and these comments actually were submitted when we were looking at different versions of the initial report, providing some feedback on some of the items that were in there.

I think as we go through these comments, I think some of them have already been taken over by events or have been discussed. So I don't think either - I just sent Mikey the (visual probably) material - make any material changes to the discussions we had or on the report.

As a more broader point, I would caution, though, in having staff submit comments through the public comment forum, because I think that makes it, you know, unless you're really looking for a formal staff statement, for example, on here, whether we agree or not agree with the recommendations, what this was really trying to do is trying to address some of the feedback we've received from working groups to have input further into the process.

So as part of the conversation, as you know, working group goes through items, it's trying, in a timely manner and I think that's the point where we need to do better to try to get it into at an earlier stage, get feedback from colleagues that would be involved in possibly implementing some of these recommendations to get some feedback from them into the conversation so that can be part of the working group discussion as you finalize, ideally your initial report.

So I think submitting as formal comments, I think may not get the results that the working groups where you're actually looking for. And also to note, because you know, the public comment review tool, I think for all the working groups, what we've also done, for example, is pick up comments that people have made during workshops or other meetings.

So there's definitely a way, as well, to if there's a concern about the accountability and transparency to, for example, include at the top of the public comment review tool, a link to that initial email where those comments appeared that I think were basically integrated into a (first) or initial report.

Like we also would do if, for example, there had been comments that came from a session in, for example, in Durbin, we provide, as well, a link to know that people can go back and check what was said at the time.

But at this stage, I would (feel uncomfortable) to actually submit these to the public comment forum and these were not intended as a formal staff decision but just some feedback that I got from several colleagues that thought it was

maybe helpful as the working group was going to its discussions and looking at these different items.

Mikey O'Connor: Yes, okay. I'm going to circle back to that in a minute. I need to sort of (puzzle search) something here. Alan, go ahead.

Alan Greenberg: Thank you. I think this - what happened this time is a moderately unique phenomenon. If I remember correctly - and I may not - these were changes to the interim report to make corrections, clarifications, not so much to our logic but more to the - for clarity and specificity and things like that.

They came in relatively late in our cycle and we were rushing to get the interim report published. And we looked at them and most of them did not seem to really have substantive impact on what we're recommending or the arguments behind it and we, for expediency, said let's just leave these out right now.

And maybe one or two of them we incorporated because there were substantive changes. Let's leave them out right now and look at them afterwards because we don't have time to do it now, and it's not going to have a great impact on the report.

So these are the things - clean ups, to a large extent - that should have been done for the interim report but we deferred it (during) time pressures. And in general, that will not happen. You know...

Man: Yes, Alan, that's...

Alan Greenberg: In a better world, we would've simply either agreed or disagreed and they would've ended up, you know, being part of or not part of, as we wish, the interim report that we published. Because we skipped that step, we still have to look at them now to make sure there aren't anything, you know, that we

don't want to change and we need to change the report, if indeed, there's something to change.

So they're coming into the cycle as we're looking at comments. I don't much care whether we keep them in the comment tool or not because we're considering them now. But I don't think we need to worry about the general case because it shouldn't happen if we had gotten that input in enough time without the deadline looming.

Mikey O'Connor: Yes, and...

Mikey O'Connor: ...Marika has a better memory than I do but that's the way I remember it. So I don't think we need to engineer how to do this in the future. I think we just need to look at these and see are they corrections we want to make or not. Thank you.

Mikey O'Connor: Yes, and I think also - what this also reminds me of - thanks for that, Alan, because your memory is better than mine - I think maybe where the confusion comes in is that they came into the public comment tool and so I've got some ideas about that, but Steve, you get to go first.

Steve Metalitz: Yes, this is Steve. I think Alan's recollection is correct or at least it coincides with mine. I think this actually will recur in the future unless the staff gets its comments in more promptly.

So maybe just for the future, you know, I'm fine with (Cisco) through this. I agree with you there probably won't be any major changes that result from it, so it's not a big deal.

But in the future, maybe this should be part of the protocol that the staff needs to get its comments in well before the deadline by which an interim report has to be published.

I - you know, I'm sure there's a better way to word that but hopefully in the future - because if it had come in earlier, I agree with you, this would not have been an issue.

Mikey O'Connor: Well, and I think - this is Mikey again - I think the other thing that we may want to do is reconsider the notion of actually putting these into the public comment tool and rather than treating them as a separate document, because it confuses things a little bit when we treat them as public comments in our analysis. So that's another retrospective idea. Marika, you first and then Alan.

Marika Konings: Yes, this Marika. I - you know, I completely agree with Steve's point that we need to get better at doing this in a timely manner and maybe that's something that's a general point for working groups to consider that at some point, maybe indeed, they have a pause and allow staff to review or provide feedback by a certain deadline.

Where I'm sometimes struggling is that, of course, I don't want to put, you know, recommendations that are only have baked in front of my colleagues and then the week after, having to go back and then back again.

So maybe it's something that we need to build in into the pace of a working group or at some point where we feel that we're getting close to, you know, finalizing recommendations and then to allow a point of saying, "Okay, now we give staff one or two weeks to actually come back and provide any feedback they have from implementation related to considerations or why they may have used or feedback on the technical aspects and do it in that way.

Because I think where I basically fall apart here is that at some point, you removed faster than I anticipated the working group moving. So that's why I actually had allowed for certain timeframe because I think initially we're (targeted) they need to publish just before Durbin.

And in the end, if you recall, we actually finished a few weeks earlier. But basically on my part, why I - I didn't anticipate that happening and build the internal comments in in such a way (unintelligible) allow sufficient time to address them then, so completely agree that we need to do that better and we're actually working on having a kind of mechanism in place that would have a more, like, someone in place that would work more in tandem with whoever's the policy support person from the implementation side to really do that in a more efficient way.

So I'm really hoping that, in the near future, we can get better at that and really build it and maybe as well as a formal step in par- as part of the working group deliberations to make this a more - (collective) and efficient. \

Mikey O'Connor: Great. Alan, go ahead. Oh, and then Avri's here and in the queue.

Alan Greenberg: Thank you. Marika said part of what I was going to say. Her recollection's right. We did finish early and I think we were all - had fatigue at that point and since the comments - remember, this is an unusual PDP in that we have one recommendation and a hell of a lot of analysis. Excuse the expression.

And most of the comments were on that dialogue and needed correcting errors in fact or phrasing things better, if I remember correctly. So we didn't think that the comments were that important because they weren't really going to impact the recommendation coming out of this, so we deferred it until we looked at the public comments and I guess that's why they ended up getting into this document. Otherwise, we might've forgotten them.

Mikey O'Connor: Yes.

Alan Greenberg: But, you know, Steve is right. Yes, we will always have some late things but in this particular case, you know, we - most of them were commenting on not

the recommendation but the body of the text and there's always fears, Marika says, because you don't want to send it too early.

Although, in fact, what they commented on probably was frozen, most of it but not all because we were still dickering with it late. So I'm not sure how much post-analysis we want to do right now, and just get on with the work. Thank you.

Mikey O'Connor: Yes, I think that's fair. I think we've sort of gotten to a pretty good place in terms of the (thing). But Avri, you're next, and then we'll - unless there's anybody else - wrap it (up). Go ahead.

Avri Doria: Okay, thank you. I guess I'm speaking after the discussion is over. And as you've already announced where we're at on it, which is cool. I actually, while I think what Marika and everyone's talking about getting staff involved earlier is good, I actually have absolutely no problem with receiving staff comments, especially staff that may be more distantly interested but not involved, to come in as any stakeholder's comments come in.

I may be alone and (being staffed) as yet another stakeholder, but for them to bring comments in with the comment period or even like most of us do, perhaps sometimes even late, I absolutely see no problem with it and would hate to see us making rules that, in any sense, would set a precedent or a notion that they couldn't. Thank you. And I know that was purely (added junk).

Mikey O'Connor: No, no, actually that's echoed where I was at at the beginning so I'll stand up. You know, I kind of like the idea of staff being treated just as a stakeholder. They certainly are a big stakeholder. They're the folks that have to implement a lot of this stuff and I, in a way, it makes sense to me. They have at least come through the public comment cycle if it seems like a reasonable thing to do.

So sorry, Avri. I didn't mean to draw a line just above you in the conversation. And sort of on those tracks and then saw - anyway, I apologize for that. Alan, go ahead.

Alan Greenberg: Thank you. I can't actually imagine most staff wanting to expose themselves and - no, no, be viewed as trying to direct where the policy, where PDP is going. And, you know, at some level, that crosses the line, so I can't really imagine it. I would have no problem if someone chose to do it.

But that's a different issue completely. Here they just showed up in this as ticklers to us to remind us to do them because they were submitted well before the interim reported needed to get out before the interim report did get out.

So, you know, how they got into this document is interesting. Whether they should be allowed to come in by a public comment period, you know, Avri says she doesn't mind. I say I'm dubious that it'll happen but - and (Tim) I suspect will have something in a different side, but again, it's not an issue that we need to look at right now which I'm thinking of making a recommendation in the future. Thank you.

Mikey O'Connor: Yes, and I'm not sure that it's in our brief much to actually make a recommendation mostly on probate to see, you know, how to treat them here and then we are tending to get a bit off topic. Sorry about that. (Tim), go ahead.

(Tim): Yes, I guess I have no problem with staff, you know, if they should choose to do so, to submit comments during the comment period. I guess my - as to whether they're a full blown stakeholder or not, I have some questions about that.

But certainly, I guess, up to the point where it begin - they begin to try to influence, as Alan said, where policy goes. I think certainly, as you said, they

have a stake in implementation. They might have advice as far as, you know, certainly legalities are concerned, those kinds of things, maybe some background.

So I think there is certainly a number of areas where staff comments are certainly warranted. I just would be very - caution against crossing that line into trying to guide or direct where the policy itself should go.

Mikey O'Connor: Yes, I think this has been good. I agree with that as well. And I think with that, unless there's anything else, we'll sort of tie this off. It seems like we've got agreement that these are in order. That was the main thing I wanted to make sure, is we, you know, didn't come to the conclusion that these are out of order and shouldn't be considered, but I don't hear anybody saying that.

So we'll go ahead and consider them right along with all the rest. And the rest of this conversation I think is just useful input for Marika and staff and other working groups to consider but I don't in any way imagine us making any kind of recommendations in this.

So thanks. With that, by my reading, the first one that we need to take a look at is number 12. Does anybody see one earlier that we need to touch? That's where I got (key). I think that's it. Let's start with 12 and then if there's one before, we can pick it up. Marika, (do you see something)?

Marika Konings: Yes, this is Marika. I think this is just a (unintelligible) this comment as least as I interpret it, more as making a note of that, indeed, if the working group recommends it, (standard) who is responsible for (existing) gTLDs that, you know, further consideration needs to be given to how that's implemented and possible cost factors.

I think part of this comment is probably overtaken by the fact that we didn't get any feedback from registries noting that they had concerns about this but I think this is just, you know, this is not a view on whether it should or

shouldn't be required or more noting that if this becomes the new standard that it will need to be further considered on how to do that as part of the implementation (unintelligible).

Mikey O'Connor: So this is Mikey again. Would it be safe to say that in a lot of cases, we might want to - in the bottom of our charter, we've got a section that talks about implementation issues that we identified.

Would it be safe to say that this would fall in that kind of category, that this is sort of not so much a recommendation but falls into the keep an eye on this when you're implementing it file?

And the reason I'm asking that is because I think many of the comments that we have yet to get through fall in that category. And so I'm sort of testing the waters on that idea. Mark, you're next. Go ahead.

Mark Anderson: Hey, Mikey. I guess, you know, I'll make two points. One to number 12, I think this is, you know, this is good feedback from staff. You know, it's good points. I don't - I wouldn't necessarily put these in implementation. I think we sort of addressed these already. I think the first part is around consistency and I'll have to go back and read what we actually put in this section.

But I think what we've discussed, and our intent around the response consistency is that the working group would recommend the same response format that has been adopted for new gTLDs.

So I think, you know, I think that that came about after the staff feedback was provided, so I think we addressed, you know, at least, you know, our intent is to address the first part already by providing this recommendation for a consistent response based on the current, you know, what has been defined for new gTLDs.

And I think the second part we've, you know, is more good feedback. You know, the point, you know, is, you know, there's a potential impact on existing thick registries, so for instance, if the thick registry has different response formatting, you know, they'll need to make changes to their Whois implementation.

And I think, you know, my recollection is we, you know, in that section, we really looked only at cost impact on thin registries. You know, so I think with just some minor tweaking of what we put in in the response, you know, for cost impact to thick registries, we can tweak that just slightly to expand that to include thin registries as well.

So, you know, I guess in summary, my point is, I think this is good feedback and I think these have either been addressed or their items we can address with just minor tweaking of our responses. Thank you.

Mikey O'Connor: Thanks Mark. I think I'm going to let Steve go and - well, Marika gets priority in my view. Sorry about that, Steve. Let me go to Marika first.

Marika Konings: Thanks Mikey and my comment is actually in direct response to what Mark was saying because I think we actually did reach out to the registry members of this working group that currently run thick registries and asked them whether there will be an impact.

And I think we also called it out specifically in the report asking for input on that specific item and I think I do recall someone providing feedback and saying, "Well, most of us are already actually supporting new gTLD registries so it shouldn't be too costly or too difficult to actually switch to that format."

And I'm happy to dig out that email because I think it was an email conversation that we had with some members of the working group but I believe it's already covered that or explicitly mentioned in the report. And we

did ask, I think, for specific input as well from existing thick registries on that item. So as I said, I'm happy to double check that.

Mikey O'Connor: Steve, go ahead.

Steve Metalitz: Yes, this is Steve. I had two questions. One is, I mean, I guess this has been answered by the previous comments - did we actually recommend not only that all registries be thick but that all registries follow a consistent response format?

Mikey O'Connor: Yes, we did. We mentioned new gTLD standard for that.

Steve Metalitz: Okay, thank you. So this is a relevant comment that's been made here by the staff, but I really don't understand the second sentence of this comment. Is it about timing issues, which it seems to be? Is it about cost, which it also mentions? Or is it about ICANN having divested itself of any authority to make any changes to these contracts with registries without going through the consensus policy process which I think we're going to be reaping the negative impacts of that for years to come?

And maybe this is just one example that ICANN doesn't have the authority to require existing thick registries to conform their Whois responses to those of all the new gTLDs and if our recommendation's adopted, to all the formerly thin registries. So I'd like the staff to explain whether this is a timing issue, a cost issue or a legal authority issue that they are raising.

Mikey O'Connor: Marika, it sounds like you're on deck. Go ahead.

Marika Konings: Thanks Mikey. This is Marika. I think, as I understand it, it's a question on how this will be implemented. Of course, if you do it through contract renewals and maybe different timing because you don't renew all contracts at the same time, but of course, if it's consensus policy, it basically would apply to everyone at the same time.

So I think it's basically asking the working group to be as specific as possible whether they see this as a, you know, one-by-one discussion that ICANN would need to have with the different existing thick registries or whether you intend - and this is how I understand it currently - this is basically to be part of a thick Whois consensus policy that basically would apply to all gTLD registries and it would also prescribe how responses would need to be handled by registries.

But I think it's more a question of, you know, please be as specific as possible if there are specific views from the working group on how this should be implemented as noting that there may be difference in timing in, you know, the two approaches and as well, there may be a cost aspect.

But as I said, you know, I think it's an item where we specifically ask existing thick registries - thick gTLD registries to comment on, and as far as I'm aware, I don't think we got any comments saying that that would be unusually costly effort or would, you know, inhibit them from doing so because of a cost aspect.

Steve Metalitz: This is Steve. Thank you for that response. Should we then modify our recommendations so that we're not only recommending that, in other words, our one sentence recommendation that everybody responded positive - or most people responded positively to? Should we be adding a phrase to that that, saying the provision of thick Whois services with a consistent Whois response format should become a requirement for all gTLD registries?

Then that - if that's accepted, go through the process, accepted by the board, a consensus policy, then it's binding on all the existing thick registries without having to go through a contract amendment?

So I think if we - since this was part of our recommendation before we explicitly asked the thick registries whether they had any concerns about it,

none of them did, maybe we should modify our recommendation to say that, so that it's clear that this is a consensus policy that we're proposing.

Mikey O'Connor: Thanks, Steve. That sounds good to me. (Tim), you're next.

(Tim): Yes, exactly. I think Steve's exactly right and I agree with that.

Mikey O'Connor: Alan.

Alan Greenberg: Yes, I certainly have no problem if we make that additional recommendation. I'd be mildly curious as we go along here, whether, given that registrar, under the new agreement, and pretty much everyone's going to have to be under a new agreement within a year or so at this rate, the registrar format is consistent. Registry is consistent for all but the TLDs that have not renewed recently.

I'm wondering how many of those registries are going to doggedly keep the old format and not simply go to the new format because it's easier to only have one format.

In many cases these are all run by, you know, other, you know, operations that are using the - that are already using the new format for one thing or another.

So I'd be mildly curious how many this would really impact. But I have no problem and, you know, with doing it and getting that level of consistency. Thank you.

Mikey O'Connor: Mark?

Mark Anderson: Just I think I had sort of been assuming that we had been talking about this as a recommendation for consensus policy.

But, you know, I think Marika made a good point, you know, we didn't specifically call that out. You know, I think this is, you know, good advice from staff that we should, you know, explicitly state, you know, that this is, you know, is there a recommendation that this be included in a consensus policy that would apply to all registries.

You know, as she pointed out just for clarity sake make sure, you know, somebody reading our report is, you know, is clear on what we're recommending.

You know, certainly, you know, from what, you know, (Tim) and (Steve) said, you know, I think, you know, their expectation is that this would be a consensus policy as well.

So unless, you know, anybody, you know, objects this shouldn't be a consensus policy. I think, you know, that should be included as part of our recommendation and final report.

Mikey O'Connor: Thanks Mark. Carolyn you're next.

Carolyn Hoover: Yes hi. Actually we are one of the registries that would be impacted because we don't do one of the registry services. We've had our own since 2001.

And so but I did, you know, ask the registry operator about this and we can make the adaptation fairly easily.

So we would not object to a consensus policy. However obviously there are going to be lots of changes to Whois.

So I think whatever statement we make in that point about that point should be taking into consideration the timing of all the other changes.

We don't want to force people to make a change and then, you know, six months later make another change. So we should make sure that that concluded in the statement I believe.

Mikey O'Connor: Yes I, you know, we talk a little bit about timing interactions in another part of the report but let's flag that one for a minute.

Alan you're in the queue again. You want to go?

Alan Greenberg: I am in the queue again. Something that we've used in other PDPs is the statement saying if we're, you know, now we're at the stage where we're making multiple recommendations.

We have in the past made a statement saying implementation of the two should not necessarily be tied together based on actual implementation.

So you know, staff will have some freedom of phasing the implementation as it affects different registries. So I just think a statement like that, you know, it's not a recommendation as such but just a parallel statement.

We'll make sure that we're not delaying everything until the most difficult thing can be done. And...

Yes. I'm...

And it allows us to take into account as Carolyn said the, you know, the other things that are going on with Whois at the same time.

Mikey O'Connor: Right, right. Okay I think to wrap this one up then what we've concluded is that, you know, pending cries of outrage from and as yet an unidentified source we'll take (Steve)'s suggestion and move it into the recommendation. I like that. There is a nice elegance to that.

I - as the guy that wrote the cost section of the report one of the things that I think Mark said that probably does bare flagging is that we should probably add a section or at least review the cost section of the report to acknowledge that this special case for Thick registries, already Thick registries having to convert the format up there Whois display like Carolyn's case.

Because I don't recall having that specific use case in that section so I think that's an easy thing to add.

And the timing issue I would put squarely in the implementation section then maybe make that as sort of a general statement in the implementation portion of our report.

Anything to add to that? I think we're done on that one and thanks all for that. I think that was a very helpful discussion.

Moving on to 14 may be Marika I'll let you do a little introduction of this. And I think the thing that would be most helpful is is there a specific ask in your that staff is suggesting or is this more of a comment? I was having a hard time sort of teasing this apart. Go ahead.

Marika Konings: Yes this is Marika. And if I recall while I would need to look back at the report I think we did emphasize this point somewhere. Because I think the point is basically trying to bring across how important Thick Whois has been in those cases where there have been registrant failure or where data hasn't been properly backed up to data escrowed.

I think we do make a point somewhere in the report are we saying well, you know, in the case of data escrowed are now more - more copies of the data available.

But I think the point is trying to get across here in those cases where there's sometimes when you need to go to data escrowed the data is not necessarily available because I wasn't properly escrowed by the registrar.

I think it's just trying to emphasize that Thick Whois worried really help in those kinds of scenarios because that data would also be available and from other locations.

And I think the point in the last (unintelligible) is basically a concrete example that, you know, Thick Whois data is used in almost every involuntary transition of the domain names from the accredited registrars.

So I think it's just trying to emphasize that point. And if we haven't done so maybe something to call out in the report to know that at least from a staff perspective this kind of data has been really helpful in those kinds of instances.

Thanks Marika. (Tim)? You may be muted (Tim).

(Tim): Yes I think that - can you hear me now?

Mikey O'Connor: Yes.

(Tim): Hello? Okay. I guess my question here is that, you know, if the registrar also failed to deposit current data into escrow and they failed I mean isn't once we have everybody, all registries Thick and registries are also escrowing data won't that be the backup or if down the road as the comment points out the need for registrar data escrow, you know, ceases because of registry data escrow?

I mean doesn't that really become the data that would be used?

In fact I question if a registrar has failed whether using their data escrow solely is a good idea anyway and if it shouldn't at least be compared with registry data or if maybe using the registry data isn't just a good idea going forward.

So I think it kind of misses that point that there's still registry data being escrowed and in an environment where all registries are thick that would seem to be - it would kind of cover the situation where registrars might fail to escrow data.

Mikey O'Connor: Yes this is Mikey. I think that this comment sort of at least for me falls in the bucket of the working group thanks you for your agreement with our conclusions.

And the only thing that we might think about pulling from this this is the last sentence which says indeed the thick Whois data is almost always used.

But for the most part it seemed to me that this one fell into the we agree and thus no action's required pile. Alan go ahead.

Alan Greenberg: So if I understand correctly what this was doing was suggesting an additional argument we could use to strengthen the argument on stability.

Mikey O'Connor: Right.

Alan Greenberg: And as such...

Mikey O'Connor: Right.

Alan Greenberg: ...if we feel that argument, you know, could be - could benefit from being strengthened enemy we can include the whole thing or a subset of it.

Remember they weren't commenting they - this wasn't saying we did something wrong. This was essentially as I read it is strengthening the argument giving real-life examples which we weren't necessarily in a position to provide but the people...

Mikey O'Connor: Yes.

Alan Greenberg: ...who (folks) who work registrars and registries were in a position to provide.

So unless there's something wrong with it I would - I have no objection with including it. I do question whether the term RDE is defined or not and if not we should make sure it is. But other than that it's a, you know, if we had reviewed this in a timely manner I think we would have said yes that's not a bad addition to what we said.

Mikey O'Connor: Yes. I think that's right. I think we probably would've stolen that language.

Alan Greenberg: It's wasn't a stolen language. They were giving it to us with the intent that we take it.

Mikey O'Connor: Yes.

Alan Greenberg: That was - that's not stealing.

Mikey O'Connor: Oh okay. All right Mark go ahead.

Mark Anderson: Yes just to agree with what Alan said there. You know, I think we, you know, and I don't have the, you know, I should probably have the initial report in front of me for this. But, you know, I think we just spoke in general terms how having, you know, multiple, you know, multiple, you know, backups. Backup points is better than the fewer right?

But this balance point, you know, this provides a concrete example of, you know, why it's, you know, why it's better and, you know, a case where it would be better.

And, you know, I think that's been a focus of our working group is to provide, you know, real-life examples. And I think this does that. So I think it's, you know, it's a good suggestion for inclusion.

Mikey O'Connor: So what if we put this in, you know, the working group thanks the staff for agreement with our conclusions in the recommended action explore inserting some of these arguments in the appropriate section of the report -- something like that is a likely way to proceed. (Tim) go ahead.

(Tim): Yes. And actually doesn't 15 kind of tie-in with this that the staff's concerned that they may not have legal right to the registries escrow account which I think they should be working towards remedying by the way. But, you know, in the case of registrar failure.

But that yes we - I think you're right as far as response is concerned but it seems like 15 would be kind of respond that way to 14, 15 as a both questions. I mean I don't - they seem to be kind of tied together there.

Mikey O'Connor: This is Mikey. I think 15's actually got something we may want to dig into a bit. Fourteen I think is pretty much thanks for your comment, figure out a way to stick those ideas into the report.

And I think 15 gets to a conversation that we may want to have. So I'm going to move on to 15 unless there's anything else about 14. I'm thinking 15 the question in my mind is whether we want to nudge the staff in some direction on this?

You know, do we want to make a recommendation or a suggestion along those lines?

Marika do you want to introduce this and maybe put some meat on these bones before we get into a discussion? Sorry to throw it at you unexpectedly like that.

Marika Konings: Yes this is Marika. On item 15 I mean I think that's all I have and I think it's basically making a point that we don't necessarily have a legal right to retrieve data from the registry escrow accounts.

And it may be helpful for the working group indeed to make a recommendation to them that should be allowed. I'm not necessarily sure what the steps to that end but if the working group wants to I could actually further look into that and provide some additional feedback on that.

Mikey O'Connor: Thanks Marika. I'm going to go to the queue in a second. But as I think about this I think another question that we need to raise is the one of scope.

I'm not sure that since this is really about all registries, not just the thick to thin transition. We may be agitated about scope as well but carry on. Mark go ahead.

Mark Anderson: I hadn't read ahead to this one yet but this is a great point and a meaty one as well. You know, and, you know, again not having, you know, any of the contracts in front of me, you know, or, you know, a legal background at all, you know, I think this point is correct.

I think, you know, in general the way the escrow agreements are written is that, you know, ICANN's, you know, a third-party beneficiary of the data and would only be granted access in the event of a failure of the registry. That's the intent of the registry's escrow is that ICANN gets the data in the event of registry failure.

So I think it - so I think the first point is, you know, that it's valid that, you know, ICANN doesn't necessarily have legal right to retrieve the data in the event of registrar failure.

But I also have a suggestion on this. And the way the new gTLD agreements deal with this issue is they have a clause for that the - it basically gives a - it gives ICANN the right to request what they call exceptional access to thick data. And the registry agreement spells out, you know, the specific use case is in the event of registrar failure.

So in the event a registrar fails ICANN would request to the registry to provide a report on all the thick data relevant to that registrar.

And I think that's, you know, I think that the Exley, you know, a great way to address that and I think that's something we could consider adopting as well.

You know, and again this is in line with, you know, some other conversation we had. You know, from a registry perspective this is something we're doing for all new gTLDs anyway, you know, so extending it to do it for existing TLDs.

You know, it's not a major burden I don't think and, you know, it would meet the, you know, it would meet the needs here.

So I think, you know, that would be something we should consider or at least could consider as part of our recommendations. Thank you.

Mikey O'Connor: Thanks Mark. (Steve)?

(Steve): Yes this is (Steve). I - what Mark just said makes me think that maybe 15 is not correct that at least in the case of new gTLDs ICANN will have the authority.

It may not be a legal right to retrieve. It sounds like a right to make a request but I guess what happens if that request is not honored?

You know, I just I don't really know quite what the legal landscape is here. I think in terms of your question about scope this is probably out of scope as far as a recommendation but it's certainly something we could flag as an issue.

And again I would just mention that to the extent that ICANN is now in the position of really being unable to make modifications to registry agreements without going through the consensus policy process I guess it's going to be difficult if registries decide they may not want to cooperate with this or that they're not eager to see that type of change in the escrow agreement.

You know, people kept saying give us examples of situations where ICANN might need to make what they were calling a unilateral change to the contracts.

And we've just come up with two in this discussion in the last 20 minutes and I think we're just going to see more and more of this.

Mikey O'Connor: Thanks (Steve). (Tim)?

(Tim): Yes well (Steve) and Mark pretty much said most of what I was thinking but I will just add one comment that in regards to (Steve)'s comment about ICANN needing, you know, unilateral ability to change it.

I, you know, and maybe there's some validity to that. But I just think in this particular case I would be - I would - I think registries would be hard-pressed to publicly resist ICANN's attempt to make a change that would make our system more stable in the case of registrar failure.

And then I think that the other kind of facet to this issue I guess that I was thinking of is we were having this discussion is that, you know, we're in an environment of vertical integration.

So registries could be registrars in some fashion or another. So I think there is that issue there too. And certainly in that case, you know, there should be access to some sort of escrow data that's being kept there.

And if we get into, you know, where brands are their own registrar, you know, for their own TLD I'm not sure if there's going even be an accreditation agreement in effect in that case.

I don't know how all of that's going to play out but there's a potential, you know, that the registry could act as its own registrar without having to be accredited but, you know, I don't know where that's going to go. But so there's a lot of little facets here.

But I think it would be very difficult for registry or registrars to sit down and argue against the change that would make our system more stable.

Mikey O'Connor: Thanks (Tim). Alan?

Alan Greenberg: Yes as I'm listening to this discussion and it's a thought I've had before we're uncovering - we're thinking in depth about this whole issue of registry registrar escrow and how the data gets access and who has rights to it and as was just mentioned vertical integration.

It is not clear to me that anyone else has had this, gone through this process before. I may be arrogant and ignoring other parts of ICANN or parts of ICANN that may have but I haven't seen this document anymore.

We have some worst case scenarios where the registry is the registrar and they're not submitting escrowed data. And when they fail everything just goes poof and it's gone.

You know, and that could just be a technical failure never mind the organization going bust.

I really think we need either a recommendation or a parallel statement. And I would actually suggest a recommendation, not a consensus policy recommendation but a recommendation that ICANN staff thoroughly review all of these issues and we can enumerate the kinds of situations we've talked about and the types of things and formally put the onus on ICANN with the board accepting it that someone think about all these things.

Because it's a rats nest and I see no evidence that anyone else is clearly thinking about it other than on this group. And I may well be wrong but it doesn't hurt to ask - to say it anyway. And if it's already being done they just take it off quickly. Thank you.

Mikey O'Connor: Okay this is Mikey. I think to wrap this up let me hit the highlights. I think the first highlight for me is that maybe the ICANN staff person who made this comment wasn't aware the provisions the mark described where ICANN at least in some of the registry contracts may be all, probably new gTLD contracts has this provision that allows them to request the data.

So it does seem to me that some - that it plays pretty nicely into Alan's comment that the research is required. I'm trying to think how and where to frame that recommendation in our report.

I mean we could certainly stick it in the implementation issues pile. We could elevated it little bit higher in the report and then we could include essentially a summary of this discussion in the section that, you know, that we're talking about right now, or just the stability section of the report.

And as I sort of think out loud that seems like a useful direction to take. So maybe what we do is treat this one again for the response. We thank the staff for raising this issue.

The action is to summarize the discussion that we've just had and developed a list of outstanding issues that need to be researched during implementation -- something like that.

Does that seem like a reasonable approach? Is that enough of a recommendation Alan to trigger the, you know, the board's stamp of approval and then some of the staff action or do we need to go even a little further than that? Any thoughts?

Alan Greenberg: My inclination would be to belabor this and not omit any option, any of the scenarios we've thought about because there's a chance then that they could omitted at the next stage but, you know, we can work - we don't need to word craft on this call.

Mikey O'Connor: No I - yes I'm just trying to think of sort of where and what? So how about we put this in this the actual report? Let's not relegated to the implementation. Let's put it in the report. Let's flush out the issues that we just described on this section of the call, document those. And then once we're in wordsmithing mode may be it will become clearer what needs to be done.

And remember we only have a one sentence recommendation. So if something needs to get promoted all the way up to recommendation status maybe it will be easier to figure that out once...

Alan Greenberg: We now have two I think because we've decided to...

Mikey O'Connor: Do we have two?

Alan Greenberg: ...recommend consistency of presentation.

Mikey O'Connor: Oh I was...

Alan Greenberg: We could phrase it in one sentence. I take it back.

Mikey O'Connor: Yes. I that - (Steve) came up with a sentence just stick that in. So I think we're still at one. Anyway okay unless people think we're on the wrong track I think this is a good spot to stop.

Let me just mention one thing. I'm on the standing committee for improvements which is the caboose at the end of the new PDP process.

And one of the things that that committee has done is developed an essentially post working group review survey that we would like to test quickly.

And I volunteered us to be the guinea pigs for that. And I mostly wanted to give you a heads up on the call to see if anybody had - I can't - well to see if anybody had any problem with that.

I'm going to send out an email in a few minutes to the group to the list but just wanted to see if anybody had a reaction one way or the other to the idea of being sort of a test case for what would then become a survey that every participant in every working group would be asked to fill out at the end of the working group.

You know, not seeing any - probably done a bad enough job of describing it that nobody has any reaction at all but let me send that email.

And if you - just leave it that if something strikes you badly when you read that email or start going into the survey itself please don't hesitate to mention it on the list.

Okay I think that's it. We'll see you all in a week. Thanks all, great discussion, making pretty good progress through this and we'll see you next week. That's it for me.

END