WHOIS Council Discussion
Teleconference
TRANSCRIPTION
Wednesday 7 January 2008 18:00 UTC

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htp://audio.icann.org/gnso/gnso-whois-20090107.mp3
http://gnso.icann.org/calendar/#jan
Participants present:
Chuck Gomes - GNSO Council vice chair -gTLD Registry C - coordinator
Avri Doria - GNSO Council chair - NCA
Lee Eulgen - IPC
Steve DelBianco - CBUC
Tony Harris - ISPC
Tony Holmes - ISPC
Carlos Souza - NCUC
Tim Ruiz - Registrar

Apologies
Steve Metalitz - IPC
Ken Stubbs - gTLD Registry C
Olga Cavalli - NomCom appointee
Pierre Bonis - ccNSO observer

ICANN Staff:
Liz Gasster - Senior Policy Counselor, ICANN Policy Support
Stacy Burnette - Director, Contractual Compliance
David Giza - Senior Director, Contractual Compliance
Glen de Saint Géry - GNSO Secretariat

Operator: Excuse me. I'd like to inform all participants that today's conference

             call is being recorded. If you have any objections you may disconnect

             at this time.

Thank you. You may begin.

Avri Doria: Okay, thank you. So should we just leave the names in the recording and have anyone – I don't happen to have it in front of me…

((Crosstalk))

Man: I have it in front of me. I'm sure Glen…

Glen DeSaintgery: (Shall I introduce you)?

Avri Doria: Please.

Glen DeSaintgery: On the call we have Chuck Gomes, Tony Harris from ISP, Steve DelBianco from the Business Constituency, Avri Doria the Chair, Carlos Souza from Non-Commercial Constituency, (David Giza), Stacy Burnette, and Liz Gasster from staff, Tony Holmes ISP, and Lee Eulgen from IPC.

((Crosstalk))

Avri Doria: Okay, is everybody there?

Okay, no conference call with other people there.

Okay, one of the things that I wanted to start with and welcome and I guess actually for me it's the first meeting of the New Year. I understand some of you have already been involved in some others.

One of the things about what's sort of developing and this call is this had been sort of imagined as a call of the council to initially go through some of the who is discussions in detail. It has actually gone on longer and more substantively than had been my original expectation for it. I'm not sure that, you know, perhaps other people had understood how it would go.

And it's almost looking like one of those drafting teams that we put together to draft a motion, to bring something forward to the council so that it can take a vote because at the moment we still don't have a motion that we can vote on.

So I had basically asked once I realized this and once I realized that this wasn't just a quick discussion that was ending but was really a process following Chuck's or the RC, I mean the Registry Constituency proposed working track that we do need to be more organized about it.

In the process of realizing that I asked Chuck if as Vice Chair of the council and as, you know, the person that brought us the RC proposal whether he would be willing to coordinate chair this particular effort.

And I did a horrible thing. I sprang it on him basically an hour before the meeting if he read his mail as quickly as I sent it.

And so gave him very little time to prepare. But also he was basically saying that he was willing as long as other people in the group didn't object.

And of course I should let you speak for yourself Chuck.

(Chuck Arms):   And of course if someone else wants to volunteer for that role I'm
                  perfectly open to that.

Avri Doria: Although I would hope it would be a council member just to keep things
                  coordinated.

                  Do I hear anybody volunteering?

                  So what I had thought up for this meeting was that we still needed to
                  go and I'll turn it over to Chuck in a second but just before I do, that I
                  thought we would go over the values and see if we were getting closer
                  on having them. We had sort of set a deadline at the last (GAC).

                  And then also perhaps we want to talk about Liz's definition or the
                  definition that Liz gathered that has been, you know, (Rick) did some
                  comment and editing. I don't mean to say that it's Liz's definition but
                  Liz did the work of collecting them.

                  So if that's okay as an agenda and if it's okay to have Chuck
                  coordinate (lead assist), and if it's okay with Chuck I turn it over to
                  Chuck.

((Crosstalk))

Tony Harris: I have a question; Tony Harris here.

Avri Doria: Sure.

Tony Harris: When you're referring to Liz Gasster's documents I'm not sure which it
                  is and I may be missing one or two.

Avri Doria: Okay, she sent it out on the mailing list and it was mail – I'd have to find the mail. It was Who Is Study terminology draft working definitions (01.doc).

Tony Harris: And the date was?

Avri Doria: And it was prepared on 23 December. Let me see if I can find the mail.

Liz Gasster: Yeah, it was sent on 23 December also. And it was also posted to the wiki workspace for Who is Discussion.

Tony Harris: Okay fine. Thanks. That'll help me find it.

Avri Doria: Okay. And I should have put out an agenda and I apologize. As I said it took me by surprise how sort of formal this became as opposed to just a quick discussion so I apologize for that.

Chuck Gomes: Okay, does anybody object to me coordinating?

                Okay, then I will do so with understand no preparation. So Avri did send it about it an hour ago but I took a little break from my previous two hour meeting and didn't jump back on till about ten minutes before this so apologize for that.

                Let me suggest a plan and I'm perfectly open to changing the order. It seems like it would be helpful if we do a quick regrouping on the working Excel file that's posted on the wiki. Several constituencies have provided input there.

And but not everybody and I think it would be very helpful if we agree on a plan moving forward on that. So I would suggest we start there.

Then that we talk about the definitions and (Tim Ruiz) sent some files around on that today as well.

Now just a quick question on that Liz is, what he sent around identical to what you sent or were some changes made?

Liz Gasster: No (Tim) edited the…

((Crosstalk))

Chuck Gomes: Okay, so his version was edited so we might want to use that. That was just sent this morning or today depending on where you're at in the world and in fact within the last hour.

So I would suggest then we talk about that. And then any other business we need to, any comments on that, any objections, do we want to do it in a different order or add other things to our agenda today?

Okay, (I'm) hearing none. Then I'm looking at the working Excel file on the wiki and if you're not there you can go to the council site and you'll see that there's a link up in the upper right there to Who is Discussion and that'll take you right to that wiki.

And it has the – I assume that - Liz is this current? I think we did have some input within the last week to this. Has this been updated?

Liz Gasster: Yeah, it does reflect the BC…

((Crosstalk))

Chuck Gomes: Okay, yeah. I see BC's on there, good. Okay, so it looks to me like the BC, the NCUC, the registrars, the registries have all submitted input into this. It looks like we don't have anything from the IPC, the ISCPC or the non-com reps.

And I think Avri you were going to coordinate with the other non-com reps on that. Is that correct?

Avri Doria: Yes. And I can give some update on that…

((Crosstalk))

Chuck Gomes: Okay. And then we haven't heard from the ALAC or the GAC either in that regard.

And the message as I recall was sent out to them as well.

Who was that sent to in the – for the ALAC and the GAC? Liz, do you know?

Liz Gasster: It was sent to – I mean (Alan) is on the list for the ALAC.

Chuck Gomes: Did we send it to the ICANN staff people supporting those like we started to do in other areas?

Liz Gasster: I did with the GAC. And I'm just trying to remember on the ALAC what I did.

(Steve):   Chuck and Liz this is (Steve). Can I ask a question on that?

Chuck Gomes: Sure.

(Steve):   In the letters to the GAC and ALAC did we asked them for a particular point in time that we needed a reply and did we sort of into the degree of detail we were looking for (in the reply)?

Liz Gasster: I'll have to go back and look, sorry.

Chuck Gomes: Okay, if you'll do that Liz that would be appreciated.

                And Lee I know that you haven't participated in some of these meetings. So if you need any points of clarification please just jump right in and ask.

Lee Eulgen: Sounds good Chuck.

Chuck Gomes: Okay.

Liz Gasster: And on the IPC I think the issue is that they had previously been the high medium, the three, and it needed to be converted.

Chuck Gomes: Yeah, just to the…

((Crosstalk))

Liz Gasster: Yeah.

((Crosstalk))

Lee Eulgen: Yeah.

((Crosstalk))

Chuck Gomes: (Reply).

Lee Eulgen: Yeah, this is Lee. I mean I think we could do that pretty quickly
                because we had provided the verbal document that built upon, you
                know, Chuck your – the (RICI)'s…

Chuck Gomes: Right.

Lee Eulgen: …original proposal or summary. So yeah, I mean yeah. I'm sorry if
                we've been holding up anything. We certainly can add the numeric
                values into the schedule pretty quickly.

Chuck Gomes: That would be great…

((Crosstalk))

Man: Chuck?

Chuck Gomes: And there's one other item Lee and that is also feasibility and the
                approach there is I think a zero if you think it's not a feasible study, a
                one if you think it's feasible.

Avri Doria: No, actually it was a one if you thought it was, a minus one if you
                 thought it wasn't and a zero if you…

((Crosstalk))

Man: Don't know.

Avri Doria: …or didn't…

((Crosstalk))

Chuck Gomes: Oh okay, thank you.

Avri Doria: Or whatever.

Chuck Gomes: Thanks. Oh okay, all right. And that is on just above the spreadsheet
                 if I had to look so.

                 Thanks Avri.

Lee Eulgen: Okay, yeah, and actually I'm at the wiki right now. I see that…

((Crosstalk))

Chuck Gomes: So you see it. So if you guys could get that in quickly that would be
                 appreciated.

Lee Eulgen: Yeah.

Chuck Gomes: Either one of the Tony's, is it possible for the ISCPC to get that done this week?

Tony: Yes, it is Chuck.

Chuck Gomes: That would be great Tony. Thanks.

Tony Harris: And I take the blame for not doing that sooner Chuck.

Chuck Gomes: Okay.

Tony Harris: I've been traveling. Unfortunately wasn't able to get to it these last few days.

Chuck Gomes: So it's all Tony Harris' fault so thanks Tony.

Tony Harris: That's right. Yeah.

Chuck Gomes: I appreciate that. All right so…

Tony Harris: Argentina is in default and…

((Crosstalk))

Chuck Gomes: That's right…

((Crosstalk))

Tony Harris: …that's no joke. Actually it may happen.

Chuck Gomes: It's the middle of summer and his air conditioning is down so he's got an excuse but if you get it done, if you guys can get it done this week that would be really helpful.

Tony Harris: Okay.

Chuck Gomes: And then Avri can you…?

Avri Doria: Yes. Basically I have tried to get the three of us to do it and just can't seem to find the ability to get us all to do it.

And so one of the things I'm suggesting because or might suggest is that and it's based on something we talked about with the GAC at the last meeting or concerning the GAC at the last meeting is that if we can't get it together and I'll give it one more try to actually come up with because I thought that it either had to be all three of us doing it and averaging those as a single value or that we shouldn't do it because it shouldn't be just one of us or just two of us. It really should be all three of us combining and from a different perspective.

That we should just drop the column from the table and from the statistics drawn because a non-action on our part is different than a deliberate, you know, saying no, zero.

So, you know, we shouldn't be a default zero and this was one of the things that came out I think last time in the GAC discussion that, you know, we can't just assume zeros where they didn't give and fives where they did give because that gives a funny weighting.

Chuck Gomes: Yeah.

Avri Doria: And so basically I will try one more time to get my fellows and me to actually do it.

                 But if we don't I think our column should be dropped.

Chuck Gomes: Now do we have a – we're using the Who Is list, is that right for communicating?

Avri Doria: No, I believe we've been using the council plus those who've been announced…

((Crosstalk))

Chuck Gomes: So we've just (been a) modified council list that adds the others.

Avri Doria: Yes…

((Crosstalk))

Chuck Gomes: Would it make sense…?

((Crosstalk))

Avri Doria: …because this is a council activity at the moment to come up with our motion.

Chuck Gomes: Right and but we have several people that aren't on the council so as long as we always remember to add them that's okay.

Would it make sense to just go ahead and create a list for this?

Hopefully it won't go too much longer but I'm just curious what people think. I don't want to be in a situation where we've left somebody off because they're not on the council.

Glen is it relatively easy to set up a list for this?

Glen DeSaintgery: It's very easy to set up a list. Chuck if you would like me to set one up…

((Crosstalk))

Chuck Gomes: If nobody objects I would suggest that and it's basically the council list.

Glen DeSaintgery: Yes.

Chuck Gomes: Plus the added people including alternates in cases where there are alternates.

Glen DeSaintgery: (Right). I'll do that.

Chuck Gomes: Okay, thanks Glen, appreciate it.

Glen DeSaintgery: Thank you.

Chuck Gomes: And then Liz, will you follow-up with the ALAC and the GAC not only the liaisons? I'm not even – I get the impression that I think it was – we were told that the GAC really doesn't have a liaison anymore.

Liz Gasster: Right, they don't believe in them anymore.

Chuck Gomes: Yeah, so if you could communicate to GAC Chair and Vice Chairs and the Secretary and ICANN staff support person for the GAC the – and similar to the ALAC as applicable there. And just let them know that we'd like their input but that if we don't get it – let's see we're on Wednesday. It may be a little bit much to say this week.

But within say seven days that for now we will delete that column so that we can go ahead and move forward because we're dragging this thing out quite a bit further than we had intended I think or thought that would happen.

Liz Gasster: Yes, okay.

Chuck Gomes: You got that?

Liz Gasster: Okay.

Chuck Gomes: Okay, thanks, I appreciate that.

And then hopefully a week – in fact it'd be nice – I don't know if we – is it too soon to shoot for another meeting next week where we can actually look at the – all of the data that has been submitted? Should we shoot for two weeks or is next week okay?

What do you think? And I'm thinking the same day and time.

(Steve):   Chuck this is (Steve). Next week is the Internet Caucus State of the Net Event so there are a few of us in Washington who probably would not be available next Wednesday.

Chuck Gomes: So maybe we ought to shoot for two weeks. What does that week look like?

                Let me take a quick look myself.

Glen DeSaintgery: 21 January.

Chuck Gomes: Should we shoot then for any final input not later than the 16th, Friday the 16th of January and shoot for our next meeting on the 21st. That would give three days or so and over a weekend not suggesting that you work on weekends but for Liz to pull everything together so that we have a little bit of advanced notice for people to look at the final results.

                Is that – anybody object to that or want to modify it in any way?

                All right, then let's…

Liz Gasster: Chuck just one thing. It's Liz. I went back through my notes and I think the GAC had told us that they did not have further input on prioritizing the studies.

                I will check on the ALAC and I'll confirm those and I'll send a note for sure as we discussed.

                But I think we already got feedback from the GAC, that there was no more feedback.

Chuck Gomes: And do they know that, you know, it's going to be hard for us to – we can't translate their feedback into the numerical numbers…

((Crosstalk))

Liz Gasster: I don't know if they really appreciate that but I will try to convey it.

Chuck Gomes: Yeah, right.

(Steve):   Chuck this is (Steve). Can I ask a question?

Chuck Gomes: Sure.

(Steve):   We all know that the GAC operates in a glacial pace when they have to actually come up with an official GAC position.

So it's unrealistic to expect the GAC to reply.

But a handful of governments that were very active in Who Is might on their own behalf give us some indication. I'm speaking of France, Canada, United States, Brazil to name a few.

Is it even worth any outreach to those members or to invite the GAC to circulate to its member governments because we would welcome a member government comment not just the GAC official comment?

Chuck Gomes: What do others think?

I'm open to doing that.

Tony Harris: I think that's a good idea, Chuck.

Avri Doria: I'm uncomfortable with it, Chuck..

Chuck Gomes: Can you give…?

Avri Doria: Basically because what we're then doing is sort of saying going at a couple active governments and sort of treating that as, you know, the GAC and basically turning them into representatives of the GAC. Certainly, you know, this is all going to go out for comments. We'll all be able to comment and (stuff).

But this is really trying to gather, you know, the constituencies, the committees and in fact quite sure of the three NCAs as being, you know, a valid category.

But so at that point what we're saying is that there's a couple (activist) governments and we turn them into – are we doing them average, are we doing them each as individuals. It just strikes me as problematic in terms of figuring out what, you know, we as the GNSO Council are going to vote on at this point.

Obviously taking the comments in, obviously everyone knows that the GAC has put in some of these and they're taking that into account in their own evaluations one way or another.

But it just makes me uncomfortable in terms of turning a few governments into representing all governments.

Chuck Gomes: Now another approach would be for us to go ahead and proceed without GAC input and include the input from the constituencies that are going to do it later this week and maybe the ALAC if they do it.

And then present that to the GAC and any other groups that don't participate in this part and for comments not necessarily adding numerical values at that time but for final comments before we approve any motions at the council level.

What are your thoughts on that?

Tony Harris: Well Chuck just a question to Avri before you…

Chuck Gomes: Sure.

Tony Harris: …answer that.

Chuck Gomes: Go ahead Tony.

Tony Harris: Had you assumed Avri that this would be put to the GAC as an option that we wouldn't get to approach governments when you made that comment?

Avri Doria: Sorry, I didn't understand the question.

Tony Harris: Well the proposal that was made for potentially some governments if they're interested to provide some input. I assume that that would have been put to the GAC as an option that they would consider rather than us going straight to governments.

Avri Doria: Oh no. I hadn't understood it that way. I had understood it as we would go to the few activists we know of, you know...

Tony Harris: Right and…

Avri Doria: …some of the well-known names that we know of who are active and say hey you know I know you guys are willing to participate differently…

((Crosstalk))

Tony Harris: Okay, so my question is would you take the same view if we did it that way if we made that an offer to the GAC to consider?

Avri Doria: Oh if the GAC is willing to say hey we put together a group or a group of us did this together but, you know, take this as GAC, no. I would say if the GAC does it, how ever the GAC does it, is okay with me, but if it comes from the GAC.

Tony Harris: Okay good. Because that's what I thought (Steve) was proposing rather than just go direct and maybe that offers a way out.

Chuck Gomes: (Steve).

(Steve):   Tony here's what I would clarify. We're waiting for Liz to confirm.

                But the understanding here is that we've already a week or two ago communicated directly to the GAC inviting them to score. They know that we've asked and…

Tony Harris: But those two things aren't necessarily the same, right. On one hand we've made the offer for the GAC to – and your point was to come to some GAC position, takes them forever. If they were comfortable with having a few people working inside and providing feedback to us instead of (unintelligible). That's the way I viewed your proposal. Maybe I've got it wrong.

(Steve):   Let's ask the GAC if they'd like to do that but independent of that there's a opportunity to ask France, Canada, U.S. and Brazil if they would wish to participate as individual governments as well.

                And other governments might be upset that we didn't contact them all and this could end up being more of a mess than it's worth.

Tony Harris: (Yeah).

(Steve):   A lot of this is atmospheric because we want to show the governments that how they interact with council, if they can start to join working groups and start to participate. So some of this is conditioning and I don't really have a high expectation that anyone will take the time to score this document. Our key is to make sure we can say at every turn we considered what the GAC asked for and that we always solicited their input and we would have been glad to take it had they been willing to offer it.

Avri Doria: I think that, if I can, I think what Chuck suggested, I mean I think going and asking them whether they want to put together a small group. My expectation is that they couldn't get GAC blessing to do it and it would still come out of representative and that's a real problem for them.

(Steve):   Right.

Avri Doria: I think sending it to the GAC once we've done it and saying we would definitely appreciate your comment on this and, you know, at that point getting back, we told you what we're going to tell you if that's what we get back would be fine.

                But, you know, I think that's an excellent thing that I'm not at all uncomfortable with.

Chuck Gomes: And then it might be less problematic to ask – to make it or communicate that we would also accept comments from individual GAC members. Would that make sense?

Avri Doria: Oh yes.

Chuck Gomes: Anybody opposed to that approach?

Liz Gasster: Yes. The phrase that we always could add there and of course we're always interested in hearing from the members of the GAC in their individual capacity, and at that point, you know, we've said that.

Chuck Gomes: So it seems to me then if we go that approach that we still need the communication to the ALAC.

                But at this point it may not make sense communicating again to the GAC; thoughts on that?

(Steve):   If Liz confirms it was already sent to them two weeks ago, I don't see the point in sending another.

Liz Gasster: Yeah. This is Liz. It wasn't two weeks ago. I'm having trouble finding things at the moment.

But it was before then like in a previous round. I apologize for not being able to find it yet.

But so I think, you know, it sounds like to be prudent we should ask again but…

Avri Doria: It was in the round before numbers. It was in the round we were just asking for letter – for names.

((Crosstalk))

Liz Gasster: It was in the round before numbers, okay, thanks. Thanks Avri.

Chuck Gomes: So we have not sent out. And when we were – we started doing this numerical thing we didn't send out anything to the GAC?

Liz Gasster: Right.

Chuck Gomes: Oh, okay. That's unfortunate I think. Okay, so we do need to communicate with the GAC.

Again I don't think much is – you know the chance of getting much back is really slim. It seems like the only person that is halfway responsive is Baratron.

And even the other governments that were mentioned aren't good at responding to email so or at least from what I've seen, certainly not the U.S. government.

So the – so, go ahead, (Steve).

(Steve): I was going to mention yesterday I was in a meeting, an off-the-record meeting. Suzanne Sene was there. We were discussing (new) gTLD. What Suzanne said is the U.S. – the GAC happened to decide the mission (of) everybody that Who Is is an example of where the GAC was mystified. When they presented a letter to the Board that somehow the Board handed it to the council.

And I don't know what part of bottom up she missed but they weren't – she professed still not to understand how is the GAC needs to work with council on things that the Board has council work on.

And that's why we have to condition them. We have to train GAC members and individual governments so they can participate directly with council by showing up on working groups. We can't miss any opportunity to condition them that way. We have our hopes to bring the government into the process.

Chuck Gomes: Yeah, bottom up doesn't apply to governments. Does it?

Sorry about that sarcasm.

So but (Steve)'s right. We're going to have to bend a little bit and try and figure out how we can successfully work with the GAC and I think that'll be part of the GNSO improvements processes and hopefully we

can get some people like Baratron involved to help us in that regard. He is the one person that's going to commit some effort to this so and maybe there are a few others.

Avri Doria: Have personal risk on occasion.

Chuck Gomes: What's that?

Avri Doria: Have personal risk on occasion too.

Chuck Gomes: Yeah.

Avri Doria: (Some) governments don't always…

Chuck Gomes: Yeah.

Avri Doria: …love what (he) does.

Chuck Gomes: I understand. So okay, well then…

(Tim Ruiz):   Hey Chuck?

Chuck Gomes: Go ahead.

(Tim Ruiz):   This is (Tim). I just wanted to let everyone know that I joined.

Chuck Gomes: Thanks (Tim), appreciate that.

(Tim Ruiz):   I little bit ago, yeah.

Chuck Gomes: I was watching your email exchanges here, one during our meeting.

And except for the fact that I'm leading this, I was going to fire one off to you and say are you going to join us. Thanks.

What we're talking about (Tim) is wrapping up this – the Excel table. The missing constituencies have already committed that and Avri also in the case of a non-com have committed to get their data in quickly hopefully this week. Avri's not sure she'll be able to pull it off with the non-coms. If they don't then we'll probably just delete that column and, per Avri's suggestion.

And so that on the two weeks from today we will have a meeting, same time, and ask that any final input be in by the – that would be on the 21st. Ask that any final input to that table be given by the – be in by the 16th so that Liz can update the table, do the averages or whatever calculations we're going to do to see where things are and so that we can come together on the 21st.

And then at that point I would think we would start to be ready to discuss some possible motions going forward.

Does that make sense?

(Tim Ruiz): Yep.

Chuck Gomes: Okay, the – so anything else on the Excel table?

Okay and Liz you're clear on what needs to be done on your part there, right?

Liz Gasster: Yes.

Chuck Gomes: Okay, thank you very much. And you'll communicate that deadline of the 16th for the numerical thing.

And we should make it clear that there'll still be opportunities for input after that. We're not trying to cut people off.

But in order for us to move forward which the GAC is also criticizing us about we need to start getting to a point where we can make some decisions, okay.

Man: Great.

(Tim Ruiz):   Sure.

Chuck Gomes: All right. And then we go to the definitions.

And (Tim) I saw your emails but and I opened the one up but I frankly did it too late before this meeting to really see the changes that you made.

Could you – it looks like they're highlighted, right? Are they highlighted, the change…?

(Tim Ruiz):   Yeah, they should be.

Chuck Gomes: Okay. I just noticed – you see how much I looked at your document because it was just a couple minutes before the meeting that I saw it.

Do you want to – maybe Liz first of all, do you want to talk about the – what you produced, not necessarily, you don't necessarily have to go through it all.

But do you have any comments about what you produced late last year?

Liz Gasster: Not really other than just to say that, you know, this was done in order to respond to the request from the council.

And we're absolutely not (weighted) to any of these terms. They don't – you know these are difficult terms to define. There's a lot to them.

And it was just intended as a starting point for community consideration so this is not, you know, reflect the opinion of ICANN staff in any way and should not be viewed as a, you know, etched in stone, just working documents for your consideration and review.

Chuck Gomes: Thanks Liz. (Tim) why don't you just kind of walk us through the change – the edits that you suggested and what you just sent around.

And if people have that up in front of them that would be helpful.

Lee Eulgen: This is Lee. I'm sorry to interrupt Chuck. I – have others had difficulty opening (Tim)'s document because (Tim) you were kind enough to resend it around in PDF form.

But I still couldn't open it. So I'm trying to figure out if it's just on my end or if others have had difficulty.

And Chuck it sounds like you could open it just fine.

(Tim Ruiz): Yeah.

((Crosstalk))

Chuck Gomes: And I opened the Word version. I used the second send. I didn't even try the first one because they were both in my inbox when I saw it. So I got it opened fine.

Avri Doria: I've been able to open both the PDF and the (IDF).

Lee Eulgen: Yeah, so obviously it's my issue, okay. Sorry everyone. I'll see if I can get it sorted out. Unfortunately I'm just not going to have it up on my screen in front of me.

Chuck Gomes: So because of that (Tim) you may need to add a little bit more context to the changes that you made to help Lee and any others that haven't been able to pull it up.

(Tim Ruiz): Right. Okay, well the first one that I – change that I'm suggesting is in the first term, undesirable content.

And it's only in regard to the examples of undesirable content with that is examples of undesirable content may include.

And there was two that I changed. The first one that I changed was originally it said pornography, hate talk, questionable chat rooms.

And to me it just seemed like that has raised more issues about what those things mean.

So I thought a better example might be something very explicit like child pornography. It's very clear that that's illegal in just about everywhere you can think of.

Then the second one that I changed the – pretty much for the same reason, gambling and violent gaming sites, I felt a better example might be to kind of break out part of the first one. Then I just included hate sites that intend to insight the violence of every illegal activity.

And I personally feel, you know, the gambling and the violent gaming sites are not very good examples for this particular thing, you know, and again we're just talking about examples.

So I just thought things that were more – very clear and explicit and (didn't) themselves have questions about what they might mean would be better examples.

Chuck Gomes: Any comments on that?

Liz Gasster: I have comments on other stuff in that one but not on those.

Chuck Gomes: Well first of all, any comments on (Tim)'s suggested changes?

(Steve): (So) it's good changes.

Chuck Gomes: Go ahead.

Carlos Souza: This is Carlos. Okay.

Chuck Gomes: Go ahead Carlos.

Carlos Souza: Okay. Well just to say that to us to think that's a (pretty) good change in order to remove violent gaming sites because it can be very specific and to put something like hate sites to insight violence (seems that is) broad and fit, I believe this (unintelligible), so pretty good changes.

Chuck Gomes: So you support the changes.

Carlos Souza: Yes.

Chuck Gomes: Thank you.

Carlos Souza: I support to remove gambling and violent gaming sites.

                 And we could have some feedback from (NCCs) to open for discussion (the GAC).

                 But, I think to remove the original wording it sounds fine to us.

Chuck Gomes: Thank you. And I think all of us will have a chance to go back or our constituencies will have a chance to comment, review and comment on anything that comes out of this so we should assume that.

Carlos Souza: Yeah, sure.

Chuck Gomes: Anything else on (Tim)'s suggestion in this section, the examples of undesirable content?

Okay, Avri?

Steve DelBianco: I did have in this section, Steve DelBianco.

Chuck Gomes: So you also have – not with regard to (Tim)'s though?

Steve DelBianco: Well it's the same section but not the same two items.

Chuck Gomes: Okay. And so Avri's in queue and then you Steve.

Carlos Souza: And same for me, Carlos again.

Chuck Gomes: Okay. Avri go ahead.

Avri Doria: Okay, yeah. I guess I'd start off with the first (unintelligible) problem.

Content is that intentionally annoying. I mean I think that would include Republican Party mailing to Democrat Party members. Inappropriate. It could be (unintelligible) drugs to women.

So I think that those terms are much too general. But, you know, intentionally annoying or inappropriate, I mean offensive is a difficult enough term but that one, you know, I think we can argue over what offensive means.

But annoying or inappropriate does seem extremely broad.

Liz Gasster: This is Liz. Could I just interrupt for a procedure?

Should I be trying to capture these as live edits too?

Chuck Gomes: I would appreciate that.

Liz Gasster: Okay, thanks.

Chuck Gomes: Okay, so Avri you're suggesting the leading intentionally annoying and inappropriate and for the sake of Lee and any others that don't have this in front of them, the sentence currently reads and this is the first sentence under undesirable content, content that is intentionally annoying, offensive or inappropriate to the individual, the organization, the community or the society as a whole.

And so if I'm understanding you correctly you're suggesting that it simply say content that is intentionally offensive to the individual, the organization, etcetera.

Avri Doria: Yeah.

Chuck Gomes: Now what does – is intentionally a helpful word?

Avri Doria: I'm not sure but…

Chuck Gomes: How do we determine intentionality?

Avri Doria: The thing is – yeah, I mean did I intend to offend is a difficult question.

But, you know, anything can be taken offensive.

So I think that there are things that we can talk about in terms of the definition of those definitional terms.

But at least intention and offense seem to make sense as notions that would be, you know, included in such a definition that there is offense and that there is intentionality. I was really objecting to appropriateness and annoyingness.

Chuck Gomes: Yeah, okay. Thank you; comments on Avri's point.

Is anybody opposed to that change?

So we're deleting annoying and inappropriate. I have some concern about the word intentional just because I don't – I'm not sure you can really measure that but I can live with it.

Lee Eulgen: Hey Chuck this is Lee. I just – it's hard for me to really react unfortunately. And I don't mean to bog us all down but without seeing everything…

Chuck Gomes: Yeah.

Lee Eulgen: …in black and white. And I think your comment earlier about everyone having the opportunity to go back to their constituency and deliberate about this further, you know, that resonated with me in any event.

Chuck Gomes: Yeah.

Liz Gasster: Lee this is Liz. I did send it to you in plain text. I hope you got it just in an email…

((Crosstalk))

Chuck Gomes: I was just thinking about doing that my self. Thanks for doing that Liz.

Liz Gasster: Sure.

Avri Doria: Yeah, I would think of marking these words perhaps for deletion but certainly not removing them at this point…

((Crosstalk))

Chuck Gomes: Put them in brackets.

Avri Doria: Bracketing them or whatever, yeah. I mean I'm not trying to say they should…

((Crosstalk))

Liz Gasster: So right now I have….

((Crosstalk))

Avri Doria: …disappear from the document before people get a chance to talk about them.

Chuck Gomes: Okay, good.

Liz Gasster: Right now I have them just in track changes so we could always reverse.

Lee Eulgen: Yeah, this is Lee. I mean something like that sounds good to me. If we're going to go through and maybe do some sort of track change thing then we can study further in black and white, I think that sounds fair.

Chuck Gomes: Now a procedure question for me. Where do these definitions fit going forward? Are they going to be a part of the recommendations in any – as far as any further studies? Where will these be used?

Avri Doria: If I can give a background on it, I'm sure Liz can add to that. What came out is basically inputting together, you know, this list of possible studies. These were words that were used that it was perhaps not going to be clear to those preparing the studies what may or may not be meant by them.

So the idea was to develop a set of working definitions not definitive definitions. And I know that's a weird phrase but not final definitions, not the true definitions but just working definitions that would allow those preparing the studies to have some idea of what we meant.

Chuck Gomes: Thanks Avri, that's helpful.

Any other comments on Avri's?

Okay, let's go to Steve.

Steve DelBianco: (Good) feedback. And any guidance we want to give to a consultant about this undesirable content, we've got to include the

catch phrase phishing because that is actually the most pernicious form of consumer fraud.

And so the word phishing should make its way into the second bullet of spam emails including unsolicited emails that contain viruses, phishing lures, fraud that link to objectionable content.

Chuck Gomes: So you would add the phishing…

((Crosstalk))

Steve DelBianco: Phishing lures. And it'll just help these people that we hire so that they'll understand oh this is what they mean. This is where phishing fits in…

((Crosstalk))

Chuck Gomes: Lee do you now have this in front of you?

Lee Eulgen: I haven't gotten it yet from Liz.

((Crosstalk))

Chuck Gomes: Okay, well…

((Crosstalk))

Lee Eulgen: I trust that it's on its way.

Chuck Gomes: That's okay. That's why I asked. So I'll read. So the…

Liz Gasster: I hope it's left my mountain. It's in the hands of the network. I'm sorry.

Lee Eulgen: No problem.

Chuck Gomes: The examples, the second example is – reads like this now, spam emails including unsolicited emails that contain viruses, fraud or links to objectionable content. And there's a URL there.

                The – and what Steve is suggesting is that we add to the that contain viruses, fraud, etcetera, that we add phishing in there.

Lee Eulgen: Yeah, I'm fully in support of that.

Chuck Gomes: Okay, any objections to Steve's suggestion?

                Okay, good. And then we have Carlos.

Carlos Souza: Chuck just a question on the same topic, on the last item, government restricted or censored information?

                My question here is and I'm really not used to that type of wording. When we begin this item to that undesirable content, it says content is intentionally annoying, offensive and inappropriate to individuals, organizations, community or society. When we come to that item we're talking about a content that is not desirable not by organization, community or society but for government itself.

                So my question is we are addressing here information that comes from the government and are protected by some public order or any other

interest or we are addressing issues regarding censorship and the other restriction to freedom of speech so it was not clear to me what you're talking about.

And we feel are talking about censorship, the common censorship issues. And I'm not sure that we could or that we should put it under this item.

Chuck Gomes: Well another question I would add to that Carlos is, which is government applies? Is it any individual government that censors some information or restricts it? Does that then become undesirable content?

Carlos Souza: Yeah. So I'm really not sure about this specific item. Does government restrict of censored information.

But my question is it is a common wording that ICANN staff usually applies on documents pertaining those types of information?

Liz Gasster: Which word specifically? The whole phrase?

Carlos Souza: Yeah, the government restricted or censored information.

Man: Yeah, the whole…

((Crosstalk))

Liz Gasster: Yeah, it is any – I don't think it's typically used in the – although others may know better, I didn't – this is something, you know, I found in doing some research on the question.

And you'll see some…

Carlos Souza: Okay.

Liz Gasster: …sites below in the text. It's intended to capture the fact that governments have different views about what might be offensive.

And, you know, it's just intended to capture that notion that countries...

((Crosstalk))

Carlos Souza: Yeah, okay.

Liz Gasster: ….some countries may take a more or less restricted approach to what is undesirable content.

Carlos Souza: Okay.

Liz Gasster: Or there is undesirable content.

Chuck Gomes: Does it make any sense and the legal people have to help me out here.

But does it make any sense taking an approach like we did on the new gTLDs, even though that's being questioned a lot right now, to refer to any restrictions based on international agreements or law?

Carlos Souza: Yeah, it's problematic here that we put in an item that says that something is not desirable or something is restricted parting or deriving

from a decision made by a government or a couple of governments because we are not talking about here content that had been declared offensive by a judiciary power.

We're talking about an executive order saying that something is restricted or something supported in the (unintelligible) in the country.

So I'm really not sure how to phrase that.

((Crosstalk))

Carlos Souza: And even if that item belongs to the term undesirable content here.

Chuck Gomes: So one option would be to delete this item.

Carlos Souza: Yeah, I think I don't have an official (NCC) position on that but probably that's an item that we will have a stronger position from (NCC).

Chuck Gomes: What do others think on that?

Liz Gasster: This is Liz if I could jump in.

Chuck Gomes: Sure.

Liz Gasster: I do think that when you look at the other bullet of examples this one does really stand out as (the states) because I think the others are more universally viewed as undesirable.

And this is attempting to capture the concept that a government may define whole categories of content undesirable but it's not necessarily universal at all.

So I think that deleting the bullet might make sense.

And I – Carlos I would ask you in the paragraph below the bullet where we explain more about the global – the fact that and in the world today countries differ in terms of how governments may define undesirable content and whether you think that's just descriptive of subparagraph standing alone sort of captures the notion without having the bullet.

So I think it might be good to delete the bullet and I wonder if you have any concern about the text of the paragraph below.

Carlos Souza: Yeah, I'll probably reread the paragraph.

But at first I think it's a good idea just to delete this bullet. Good point.

Chuck Gomes: Okay, anybody oppose to deleting government restricted or censored information as an example?

Okay, anything else on this section under undesirable content?

Okay. The next category then is misuse. (Tim) you didn't make any changes there did you?

(Tim Ruiz): No, I didn't.

Chuck Gomes: Anybody else want to comment on that section?

Avri Doria: I have a problem.

Chuck Gomes: Okay, Avri go ahead. And Lee I assume you still haven't received that. Do you want me to read the paragraph to you? It's just one paragraph.

                 Lee, are you there? Did we lose Lee? Let me look…

Avri Doria: Or he's on mute.

Chuck Gomes: …let me look at my – where is my…?

Glen DeSaintgery: He's still there Chuck.

Chuck Gomes: Yeah, it looks like he's still there. Okay.

Glen DeSaintgery: He's still there.

Chuck Gomes: All right, well Avri go ahead.

Avri Doria: Right, mine was just on a clause, the abuse of personal data.

                 And I was wondering whether we couldn't be more specific and say basically the use of personal data for purposes other than for which it was collected or other than by those for whom it was collected or something of that as opposed to just the abuse and be slightly more explicit about what abuse of personal data is which is using it by people for whom it was not intended for purposes for which it was not intended.

Chuck Gomes: Any comments on that?

Steve DelBianco: It's a good idea.

Chuck Gomes: Yes, it seems to make sense to me. Anybody opposed to that?

Liz, were you able to capture that? Do you need a little time there?

Avri Doria: And I know I did not…

((Crosstalk))

Liz Gasster: I think we would want to be more precise about for purposes beyond the purpose intended or, you know, to make sure it's clear the purpose understood by the, you know…

Chuck Gomes: Of course you never know what's understood so that's…

((Crosstalk))

Steve DelBianco: Purpose disclosed to the provider.

((Crosstalk))

Liz Gasster: That's good. Okay, but yes I've got it.

(Tim Ruiz):   If anything was disclosed which may not have been.

((Crosstalk))

Chuck Gomes: Yeah, right. Okay, anything else on the misuse paragraph?

And Lee if you want me to read that one just let me know.

Okay, let's go onto the commercial purpose paragraph. And I don't see any changes there either.

(Tim) is that correct?

(Tim Ruiz):   Correct, not from me.

Chuck Gomes: Anybody else have comments on that one?

Okay, and then proxy and privacy services is Section 4 there.

And (Tim) you did suggest some changes there. You want to talk about those?

(Tim Ruiz):   Yeah. First I removed the comment that proxy services are a subset of privacy services.

I don't know if they are or not. But it's really kind of irrelevant. There's two different types of services, one's a privacy service, one's proxy. So you felt it best to define those and not necessarily imply (e-relationship) otherwise.

And then I just split up the two definitions and expanded on the proxy services definition.

And so the proxy service definition now reads proxy services to protect user's privacy by having a third party register the name. The third party is most often the proxy service itself.

The third party allows the user to access and use the domain name to (access an) agreement or some other arrangement directly with the user.

Proxy service providers may include web design law and marketing firms, web host, registrars, subsidiaries, resellers and individuals.

And I believe the privacy I don't think I really changed – well it looks like I changed that first time. I believe that was actually there before so I'm not sure how that got highlighted but I could be wrong.

The first sentence of the privacy, it says privacy services, (accustomed) to details from going into Who Is.

And the rest of the paragraph, privacy service providers which may include registrars and resellers and they offer alternate contact information and mail forwarding services while not actually shielding the domain name, registrant's identity. By shielding the user in these ways these services are promoted as a means of protecting personal privacy, free speech and human rights and avoiding personal data misuse.

And the only other change I thought about there was that that last sentence might be coined more as an opinion than a statement of fact but…

Chuck Gomes: Which sentence are you referring to (Tim)?

(Tim Ruiz): In the privacy where it says by shielding the user in these ways these services are promoted as a means of protecting personal privacy, free speech and human rights and avoiding personal data misuse.

Chuck Gomes: And so what change were you thinking about on that?

(Tim Ruiz): Well just whether – you know I don't know if they're all promoted that way or not. I don't know if it really matters but, you know.

Chuck Gomes: Okay. Any questions or comments of what (Tim)'s suggesting, any opposition to the changes?

Okay, and again we'll all get a chance to look at this again. The – probably for the sake of those that aren't on this call the – it'd be good to keep this highlighted version and add any – along with highlights that are from any that we've made in this session, okay.

Anything…?

Liz Gasster: Chuck I'm working off of (Tim)'s version now so yeah.

Chuck Gomes: Excellent, okay. That makes it easy. Thanks Liz. I appreciate you being ahead of the game there.

Anything else on proxy and privacy services?

The fifth one then is relay information request. And it doesn't look like you've made any changes there (Tim).

Does anybody else have a comment in that regard?

Okay, how about six, falsify Who Is data, (Tim) it looks like you have a change there. You want to talk about that please.

(Tim Ruiz): Yeah, the last sentence of that originally read, if I have this right, ICANN therefore expects registries and registrars to collect accurate information and prevent false information while at the same time providing mechanisms to protect privacy.

And I had an issue with ICANN expects us to prevent. Now that may be true.

But in reality all that registrars are required to do, I believe registries perhaps it's the same, is to collect the accurate information and take appropriate action if false information is discovered or suspected.

And so that's the way that I changed that sentence.

Chuck Gomes: Why don't you read the whole sentence as you've changed it?

(Tim Ruiz): It says ICANN therefore expects registries and registrars to collect accurate information and to take appropriate action if false information is discovered and suspected while at the same time providing mechanisms to protect privacy.

Chuck Gomes: Any problems with that sentence?

(Tony Harris): Just on that, I would prefer if maybe we could've molded the word prevent into (Tim)'s change. If it said something like to take appropriate actions to prevent, if that's possible.

Chuck Gomes: (Tim)?

(Tim Ruiz): Well the only issue I have is that it implies that there's some requirement on registries or registrars to prevent false data upfront and there isn't. There just isn't.

Now maybe there should be, maybe there will be whatever.

But it's certainly not any expectation that we're aware of at this point. So there's no attempt to try to be accurate in what the current situation is.

Stacy Burnette: Hi (Tim). This is Stacy Burnette from ICANN.

And I completely concur with your analysis that there's no requirement to collect accurate information only after you receive a complaint that there's possible inaccuracies so the requirement kicks in under the (RAA).

Tony Harris: And I have a question. Tony Harris.

Chuck Gomes: Go ahead Tony.

Tony Harris: Yeah, is there an ICANN requirement to provide mechanisms to protect privacy?

Chuck Gomes: Stacy do you want to respond to that?

Stacy Burnette: You know I want to review the (RAA) in that regard.

But my gut response is no. There is a requirement to investigate claims with inaccuracy but to have mechanisms in place to do that, I don't think so.

But I want to review the (RAA) one more time.

Chuck Gomes: So what we ought to do is put that last phrase there while at the same time providing mechanisms to protect privacy in brackets.

Avri Doria: Oh one comment…

((Crosstalk))

Tony Harris: Right.

(Tim Ruiz): This is (Tim).

((Crosstalk))

Tony Harris: Hello?

Chuck Gomes: Just a second.

Tony Harris: Can I complete my point?

Chuck Gomes: Oh sure Tony. And then we'll go to Avri.

Tony Harris: Yeah. I'm sorry, just to complete my point. I think that providing mechanisms to protect privacy would be probably proxy services by – I mean as a practice, right.

So basically that is being provided on a voluntary basis by the registrars to my understanding at least.

Chuck Gomes: Right.

(Tim Ruiz):   Yeah, this is (Tim) Chuck. The way I read that and I can see where that could be an issue and, you know, I don't have a problem with that last part coming out.

I guess the way I look at that was that we're – you know we do have some requirement to protect the data to make sure that we inform the registrar on how their data is to be used, etcetera, etcetera.

So that may be what was intended there but I agree with Tony that sounds like it's, you know, much different and there's certainly no requirement that we provide privacy services.

Chuck Gomes: And it would be consistent with deleting the word prevent because there's no requirement for that.

Tony Harris: Right.

((Crosstalk))

Avri Doria: Before we cut out, I'd like to comment.

Chuck Gomes: Yeah, go ahead Avri.

Avri Doria: Well yeah, I think what might be accurate is while at the same time providing mechanisms to protect privacy as required by national law.

Chuck Gomes: Yeah.

Avri Doria: So I think that that's the requirement that the registrars find themselves under in terms of protecting privacy. Not that its an ICANN rule but there's a variety of national and perhaps even some international regimes that do have privacy requirements that are - you know, that impinge on what a registrar can or can't do.

Chuck Gomes: So in other words we could say while at the same time providing mechanisms to protect privacy as required by national law.

Avri Doria: Or as required by law, yeah.

Chuck Gomes: As required by law. Yeah, that would be fine.

Tony Harris: Chuck can I come back on Avri's comment?

Chuck Gomes: Sure Tony.

Tony Harris: I don't know whether we can put something in that clarifies what appropriate action is take in account of the comments from (Tim) and Stacy.

But to me that means that someone has to make a subjective judgment on what that appropriate action is and who is that, where is that going to come from or is it totally open…

Chuck Gomes: Well.

Tony Harris: …because the way I look at it now it is totally open. Appropriate action means you can do whatever you want to really.

Chuck Gomes: Well we really lose too much if you take the word appropriate out would we, if that's a problem.

Tony Holmes: Can I get in queue with Tony Harris?

Chuck Gomes: Sure go ahead Tony.

Tony Holmes: Yeah. Well just looking back at what these last few years of discussions have been about protection of privacy I would be very cautious about this phrase, you know, providing mechanisms to protect privacy. I mean I'm sure (Milton) would be ecstatic if we leave that in.

But I don't think it's been a consensus amongst all the constituencies as to how that would be done and it sounds like we're sort of defining it there.

Chuck Gomes: And you're talking about that last phrase?

Tony Holmes: Yeah, you know, protecting privacy. I mean that's the probably the root of the whole Who Is discussion.

And there's a sentence that which is spelling it out in some way.

Chuck Gomes: What your suggestion and do you have a…?

Tony Holmes: I wouldn't mention that.

Chuck Gomes: You wouldn't even mention providing mechanisms to protect privacy?

Tony Holmes: No, because for – I mean (Tim)'s point I think was quite appropriate. Rather than being mechanisms to protect privacy there would be as from what he said it would be consumers would be alerted or informed about taking measures on their privacy or some wording to that effect.

But something which is generic and which is saying Who Is it about protecting privacy, I don't think we've come to that agreement yet but I may be wrong.

Avri Doria: I concur.

Chuck Gomes: Avri you want to talk?

Avri Doria: I want to make sure. Okay, yeah, well I don't think we're actually saying the Who Is is about privacy. And I don't think there's any, you know, need to name it the (Milton) issue.

But I think that there are indeed national rules that restrict what those who collect data can do about them and privacy regards.

So I think that just taking into account that the registrars are forced by law to protect privacy and that therefore when we're talking about the

falsification and the correction and the publication that national law needs to be taken into account. That's all that I was, you know, suggesting. Not that the Who Is is about privacy. It's just about national law does need to be respected.

Tony Holmes: Chuck can I respond?

Chuck Gomes: I would hope you would.

Tony Holmes: Yeah, basically I think Avri has a good point.

But we're looking at number six which is falsify Who Is data, right?

Well I'm not too sure where there is a need to mention mechanisms to protect privacy when we're really worried here, we're concerned is this paragraph about people who falsify their data. That's just a simple point really.

Chuck Gomes: So I think there are two points on the table right now if my mind's on track here.

Number one Tony Holmes questioned the use of the word appropriate in front of action there.

And then we also have that last phrase whether we should leave it in as modified by Avri or just take it out.

Let's go back to the – Tony Holmes' comment about appropriate. Tony would you be more comfortable if the word appropriate was not there?

Tony Holmes: Yes, I would.

Chuck Gomes: Does anybody have an objection to that?

                Okay, then we'll delete the word appropriate as far as the redline
                version goes.

                Now let's go to the and Avri I think you're supporting…

Avri Doria: And in fact I think my support just got stronger with the removal of the
                word appropriate because for example someone could therefore sort of
                say well we suspect that there's false information in these. And we
                therefore will publish this information in all the newspapers and ask
                anybody to send us notification if they know that this data is not true.

                Now that may be appropriate and it may not be appropriate and I do
                defer to Tony's definition of how do we appraise that that's appropriate
                but that may also be legal or illegal within some national law.

                And so therefore yes, leaving out these objective judgments of
                appropriateness is okay as long as we admit that we remain bound by
                national law and that ICANN at an international level cannot attempt to
                sort of say well we said it has to be accurate and we think – you know
                so that's why I think I'd even more strongly advocate the phrase with
                by national law if we take out appropriate which I have no argument
                with.

Chuck Gomes: Tony Harris would you like to respond to that?

Tony Harris: Yes, I'd be uncomfortable with that. I think we're getting way proxy intent of this paragraph but that's just my opinion.

Chuck Gomes: Okay, let me ask some others to jump into this discussion to see if you can help us reach some sort of rough consensus on that.

We've got two different viewpoints on this. Anybody else have a thought that might help?

Steve DelBianco: Steve DelBianco, would the word required be appropriate for – sorry would be better than the word appropriate. It's a required action.

(Tim Ruiz):   I would support that as well. I've been struggling with removing it and it does drop both ways I think the proposal (resolved) the first (time).

Chuck Gomes: So take a required action instead of appropriate action.

(Tim Ruiz):   Yes.

Steve DelBianco: Right. And required there implies both your contractual requirements with ICANN married with whatever legal restrictions you have in the country in which you're incorporated.

Avri Doria: How about required and legal?

Steve DelBianco: I believe that required captures both legal and contractual.

Avri Doria: Not being a lawyer I don't know.

(Tim Ruiz):   I mean the first sentence actually, you know, says falsify Who Is data (to issue) the balances. The need to balance the technical and legal requirements of who is the (naming) registration records with the right to registrar and privacy. Its kind of predicated there in that first sentence.

Is that – and then if we changed to take required action, that sort – that required is then sort of based on taking into account the technical and legal requirements, blah, blah, blah.

Avri Doria: Yeah.

(Tim Ruiz):   It's already built in there.

Avri Doria: Yeah, okay.

Chuck Gomes: So that last phrase while at the same time providing mechanisms to protect privacy may not be needed.

Steve DelBianco: This is Steve DelBianco. I mean you were going to get to that a little later but I would agree with Tony that we do not want that in there.

Chuck Gomes: Do not want what in there Steve?

Steve DelBianco: The very last sentence that (Tim) added. It says while at the same time providing mechanisms to protect privacy. I don't think that belongs in a discussion of falsification. It belongs in other places.

(Tim Ruiz):   I did that Steve - that was just…

Liz Gasster: No, that was me.

(Tim Ruiz):   But no I wasn't…

((Crosstalk))

Steve DelBianco: Okay.

(Tim Ruiz):   …trying to add anything…

((Crosstalk))

Steve DelBianco: Got it. Good point.

(Tim Ruiz):   Yeah, I would support removing that last part.

Steve DelBianco: Thanks (Tim).

Chuck Gomes: And Avri with the discussion that's gone on in putting required in there instead of appropriate, are you okay with that?

Avri Doria: Yeah, I guess.

Chuck Gomes: Okay. You'll concede, not totally excited, but you're okay.

Avri Doria: That's right, I won't quiver any further.

Chuck Gomes: Thanks. Okay, all right. Anything else on falsify Who Is data?

All right, natural persons, (Tim) you made a couple changes there.

(Tim Ruiz):   Yeah. I just changed – I might have changed where it says a real living individual as opposed to a legal person which is a company business, partnership, nonprofit entity to which may be. I'm not certain even all businesses, partnerships or whatever still qualify a legal person so that's just a minor change.

But in the second sentence which said registrants declare whether they are a registry and a domain name as a natural person or legal person at the time of registration. I changed that to registrants indicate whether they are a registry and domain name one way or the other.

And because I don't think it's really clear that registrants really do that. It's certainly not explicit requirement on registrars to have registrants declare that. It is an explicit requirement that we collect the information on a registrant. If that information given is the information of a natural person then that's what we can assume they're indicating. If they give the registrant information as that of a business then we can assume that they're indicating that it's likely a legal person.

Chuck Gomes: Well I have a question there (Tim).

(Tim Ruiz):   But it's not – so declare just kind of makes it sound as if there's some specific declaration that they're required to make and this is not the case.

Chuck Gomes: But do they really indicate? Even if you change to indicate, does that really happen?

I understand that you based on the information you received reach some sort of conclusion.

But is the registrant really doing either one, declaring or indicating?

(Tim Ruiz): Well that's…

((Crosstalk))

Tony Holmes: Can I get in queue?

((Crosstalk))

(Tim Ruiz): You know. That is a good question there.

((Crosstalk))

Chuck Gomes: I didn't hear what you said (Tim).

(Tim Ruiz): I just said that's a good question Chuck.

Chuck Gomes: Okay. Tony go ahead.

Tony Holmes: Yeah. Just a curiosity question actually but I mean most people who go in and complete a template for a domain name, would they know what a legal person is or natural person?

Chuck Gomes: Yeah, that's a good question.

Tony Holmes: I have my doubts about that.

Chuck Gomes: Yeah. And my point is I don't think there's any step taken by registrants to even make that decision. Again a lot of us in the registration business, you know, jump to conclusions based on the information they provided whether they're a natural person or a legal person.

But I don't think the registrant makes that choice in any way even if its just indication.

So I'm wondering whether that sentence is valid at all.

((Crosstalk))

Tony Holmes: If it doesn't produce an automatic result, operational result does it make any sense, right?

Chuck Gomes: Right, exactly. Liz you put that in there. You have any comment?

Liz Gasster: I think the question is, you know, whether it happens or not. Whether registrants actually do indicate in some way or whether and I don't know the answer. I think…

((Crosstalk))

Chuck Gomes: There's nothing to prevent a registrar from asking for that information I don't believe.

But I don't think it – it's not a thing that happens universally.

Liz Gasster: Well one thing we could do is simply say registrants may indicate.

(Tim Ruiz):   Or maybe that the assumption is made…

((Crosstalk))

Liz Gasster: Or it may be…

(Tim Ruiz):   …based on the information they provide or that assumption may be made based on the information they provide.

Chuck Gomes: But let's hold on a second. I mean what are we trying – what does that sentence accomplish? Natural persons are defined in the first sentence, right?

Liz Gasster: I think the real point is that it may not be clear whether registrants or registry and domain names as natural persons or legal persons.

Chuck Gomes: Then maybe that's what we should say.

Liz Gasster: As I take a step back I think that's the real point, right. We want to or someone to protect the privacy of individuals but it isn't clear when registrants register whether they are for the most part whether they are natural persons or not.

Chuck Gomes: So maybe we should say – go ahead (Tim).

(Tim Ruiz):   Well I was just going to agree with Liz on that because I think that probably then gets more to the point of some of the studies that are using that term and what their study is about. That's probably more appropriate to that – to our needs.

Chuck Gomes: So Liz you actually came up with a sentence that might work there. I can't repeat it but when you said it, it is often not clear.

Liz Gasster: Yeah. What I wrote now is it's just not clear whether registrants are register in a domain name as a natural person or a legal person. I know it's not quite…

((Crosstalk))

Liz Gasster: (Unintelligible).

Chuck Gomes: And we could say you could add the word often there. It is often not clear because there are times for example if the registrant is an incorporated entity and that's part of, you know, its an Inc. or a LLC or something like that. It becomes more clear.

                 But so but it is often not clear.

Liz Gasster: That's what I've got.

Chuck Gomes: Good. Any objections to that? Anything else on natural persons?

                 Okay, the last one is adequate protective measures. And I think the only change there was capitalizing – oh it was – no, (Tim) go ahead talk to your change there in the last sentence.

(Tim Ruiz):   Well the last sentence originally said proxy and privacy services are also used as Who Is protective measures making personally

identifiable domain and user information unavailable to automated queries.

And I'm sure this will be somewhat controversial.

But I took out proxy and that's why I capitalized privacy which I think should be capitalized everywhere anyways so it's clear or it's consistent.

But simply because in a proxy situation the proxy is the registrant of record and so their information is published and, you know, they're personally identifiable, domain name user information is available to automated and public query.

So that's why I took that out. If someone feels there needs to be further explanation I, you know, have no problem with that.

But I think just including proxy in that sentence is not accurate.

Chuck Gomes: Questions or comments?

Anybody opposed to that change?

Okay, anything else on the definitions?

So once it's okay if you wait Liz until Glen gets the new list established but once that's established can you send – I would appreciate it if you would send around a redlined version including (Tim)'s edits that remain and other changes that we made today.

Liz Gasster: Yes, it's ready to go whenever the list is ready so…

Chuck Gomes: Okay.

Liz Gasster: …I'll coordinate with Glen.

Chuck Gomes: And what I will try to do once that list is ready is do a quick summary of what we did today. It'll be very brief, high level so that and including the fact that I took over the coordination of this and if anybody has any objections please speak up or volunteer.

And so I think we've – several of us have action items with regard to finishing off the Excel table and so I think we have that done.

Anything else, any other business that we need to discuss today?

Woman: Okay.

Carlos Souza: Chuck this is Carlos.

Chuck Gomes: Sure Carlos.

Carlos Souza: Just a question, do we have a deadline for submitting comments for the definitions or no, we just keep going working on the eventual motion and there is no deadline for the definitions?

Chuck Gomes: Well it's a good question Carlos. And I would recommend Liz when you send out this redline that you encourage on (list) discussion of those so that and hopefully with a little lead time before our next Who Is Meeting in two weeks so that we could discuss those, any additional

suggested edits or comments from constituencies like Carlos is suggesting in our next call.

Is that okay?

Liz Gasster: Yes.

Carlos Souza: That's fine.

Chuck Gomes: Is that good? And again that doesn't mean that edits to those have to end two weeks from now. But it would at least give us a target and hopefully we're getting close to a final document by then.

So Liz in other words if you can encourage members of this group including all counselors to, you know, send those around to their constituencies so that and get any feedback prior to that meeting two weeks from now and then we'll – Glen if you can just go ahead and schedule a Who Is Meeting for two weeks from now that would be helpful.

Glen DeSaintgery: I'll do that Chuck.

Chuck Gomes: Anything else?

Thanks Carlos for that, good point.

Carlos Souza: Thank you.

Chuck Gomes: Hey thanks everybody. Have a good day.

Avri Doria: Yeah, thank you very much.

Chuck Gomes: Okay.

Liz Gasster: Thanks Chuck.

Chuck Gomes: Okay, bye.

Glen DeSaintgery: Thanks Chuck.

Man: Bye.

Man: Thank you. Bye-bye.

Man: Bye Chuck.

Operator: Thank you for participating in today's conference call.

                   You may disconnect at this time.

END