

**WHOIS Study Group  
Teleconference  
TRANSCRIPTION  
Tuesday 22 April 2008 15:00 UTC**

**Note:** The following is the output of transcribing from an audio recording of the WHOIS Study Group teleconference on April 22, 2008, at 15:00 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-whois-study-20080422.mp3> on page: <http://gnso.icann.org/calendar/#april>

**The next teleconference will be on Tuesday, 6 May 2008, at 15:00 UTC.**

**Present:**

David Maher (RyC) Stéphane Van Gelder, Paul Stahura, Krista Papac, James Bladel, Tim Ruiz - (Registrars), Lee Eulgen, Steve Metalitz - (IPC), Wendy Seltzer – ALAC Liaison to ICANN Board, Danny Younger.

**Staff**

Liz Gasster, Patrick Jones, Glen de Saint Géry GNSO Secretariat,

**Absent excused:**

Ken Stubbs (RyC), Jordi Iparraguirre (RyC), Steve DelBianco (CBUC)

Coordinator: Excuse me, Stéphane Van Gelder now joins.

Liz Gasster: Hello Stéphane

Stéphane Van Gelder: Hello, everyone. (Liz) is that you?

Liz Gasster: Yes, it's me.

Stéphane Van Gelder: Hi.

Liz Gasster: Hi. We're just gathering.

Stéphane Van Gelder: Okay.

(Liz): So just have a few folks on the line so far.

Stéphane Van Gelder: Okay.

Liz Gasster: Hey Glen, what are those little letters mean after each person's name?

Glen Desaintgery: Oh, that I don't know.

Liz Gasster: Like it says, Liz Gasster, EPV.

Glen Desaintgery: (Unintelligible)

Coordinator: (Unintelligible) now joined.

Liz Gasster: Ever present vocal. We're looking at the list of conference participants on the web-based conferencing system to see on who's on the call and after each of our names there are a couple of abbreviations that I'm sure – oh I see. They're operator initials. Oh isn't that nice. Okay. Very useful.

So we're just gathering here and we just have a few folks on the line so far, so bear with us.

Man: Excuse me, Ms (Seltzer) joins now. Thank you.

Liz Gasster: (Wendy), welcome.

(Wendy Seltzer): Thank you. Took a while this time.

Woman: Did it, to get through?

(Wendy Seltzer): Yes.

Woman: That's good to know.

Woman: Excuse me, Mr. Paul Stahuranow joins.

Paul Stahura: Hello.

Woman: (Paul)

Glen Desaintgery: Hello, (Paul).

Liz Gasster: We're just gathering as a group, so bear with us for a couple more minutes. We've got several others on the line. (Paul), do you have a priority list of sufference of - who is categories for studies or any other input that you want to provide on...

Paul Stahura: Not really.

Liz Gasster: Okay.

Paul Stahura: It's going to be tough to do, these studies.

Liz Gasster: Right. Well we have seven categories of studies that we've identified. Basically put the study recommendations that we've gotten so far into these seven categories. So we're looking for folks to weigh in with what their preferred priority order is. And for several of the participants in this group, you know, it's no across the board. So no across the board is, you know, for the purposes of input on this effort is, you know, a reasonable way to weigh in but for those who feel that more studies should be conducted, we're looking for the specific ranking order of those that are preferred.

(Glen Desaintgery): (Liz)?

Liz Gasster: Yeah?

Glen Desaintgery: There are excuses – four people absent and they are (Kim Stamps), (Jodi Eparidere) and (Steve Delbianco).

Liz Gasster: Oh, okay. Thank you. And I know (Steve Metalich) said he was going to be joining a little bit late. I'm still expecting and haven't heard from, let's see, (Tony Harris), (Tim Areese), (James Bladell), (Christif Patrick), (Eric Bruner-Williams) and (Danny Younger) and ...

((Crosstalk)).

Glen Desaintgery: (Christif Patrick) and (Mark) will also will be away because I got an automatic away response when I sent out the reminder yesterday.

Liz Gasster: Okay. Thanks.

Glen Desaintgery: So perhaps you could just keep that in mind.

Liz Gasster: Okay. Thanks.

Lee Eulgen: (Liz), this is Lee Eulgen. I know (Wendy) already made this comment, but it took me about five minutes to get someone to take my password. So maybe people are just kind of waiting to jump through the hoops to get signed in.

Liz Gasster: Okay. Well, we'll give it another couple minutes and then we'll get started. I don't want to drag it out too long. So, and I know it's hard for such a big group to all join every time.

And (Wendy), I'm assuming that I have your vote which is no across the board and no, you didn't send anything specifically for this.

(Wendy Seltzer): Yes, that's correct.

Liz Gasster: When I say, vote, I say "vote" in quotes because, you know, I recognize we're not – it's not official voting. It's just a way of measuring how the participants feel so I say that with that in mind.

(Wendy Seltzer): Thank you.

Liz Gasster: Use that term with that in mind. Okay, well let's get started because I know everyone's pressed for time, and I for one didn't deliver on my deliverable for today which was to add the T policy objectives that were identified for each of the study proposals that had been submitted. So I'm guilty of being behind as well. Should we start the recording if that has not been done?

Glen Desaintgery: I'll see to that.

Liz Gasster: Thank you.

Coordinator: Excuse me, this is the operator. Just to let you know, the call is now being recorded. Please go ahead.

Liz Gasster: Thank you. And so, I understand that (Jody) and (Ken) and (Steve), they'll be also - are not going to be on the call and we have on the call so far, (David Baher), Lee Eulgen, (Pas Dehura), Stéphane Van Gelder, (Wendy Seltzer) and then from (STASH), Liz Gasster, (Patrick Jones) and (Glen), the secretary. Am I missing anyone? Okay, great.

Well I have gotten input then from everyone except (Tony Harris) from the ISPs, (Paul Stehura) from the Registrar, (Eric Weiner-Williams) from the Registrar and (Danny Younger). Those are the four people who I have not gotten prioritization from. So...

(Wendy Seltzer): Sorry, this is (Wendy). I believe I saw a recent message from (Danny Younger) reporting the no further studies.

Liz Gasster: Fine. Fine. Good. Well I will, as soon as I get everyone's comments or even if I don't, I will send something out in the next few days. I've just been buried. It kind of gives the order that those who have order have identified and it will also update the earlier document to bring the policy objectives that each of the proposed studies up to the front so that's easy to view at a glance. And I know I'm really behind.

What I'd like to accomplish on today's call or what I would suggest, and we can have a relatively short call, we need to follow up and make

sure that we have the input from as many people as are going to give input as quickly as possible.

We need to talk a little bit about what to update the counsel on. Today is the 22nd and - of April and originally the motion called for input to the counsel by the 24th of April, which is Thursday. I've already told the chair and vice-chair that we would not make that deadline but I am going to just provide an update to them about what we're doing and where we are in the process. And what I would like to get from all of you is advice about what to say on when we think we would have a recommendation for the counsel or at least the ability to give, you know, another update.

So does anyone have a suggestion? I could throw out an option. I was kind of thinking that we should use at least the first three weeks in May, you know, something like 61320 and try to come up with a recommendation say by Thursday, the 22nd of May and suppose that is a new alternative. There is a counsel meeting on the 29th, so if we were able to give a recommendation by then, they could probably get it on their agenda just at least for an initial discussion on the 29th. So let me, I mean it's just an idea and thoughts from the group?

Stéphane Van Gelder: Liz, this is (Stephan).

Liz Gasster: Yes?

Stéphane Van Gelder: Just a question, really. What are we recommending on? If we're recommending on whether the study should be done or not, in light of the views that have already been expressed, I feel we could move on that quite quickly. If we're recommending on what studies

should be done, in that case we may have a harder time reaching some kind of consensus view. Which one is it?

Liz Gasster: It's the latter.

Stéphane Van Gelder: Okay.

Liz Gasster: But I think it's really important to – you know, we have to figure out a way that we are going to express a recommendation. And , you know, I have to say in candor right now, we have a pretty divisive group in terms of what ought to be done. We have a number of people who really feel strongly that no further study should be done and they've articulated quite clearly their reasons for that. And then we have, you know – and that's a substantial number although it appears to be a minority of the people participating in the call, but a substantial one.

And then we have, you know – and a majority of the people participating in the call who think there could be good reasons, policy reasons for doing studies and have identified studies tied to policy rationale that they think should be done that, you know, would form the basis of a recommendation.

I think we have to acknowledge in – that developing a consensus report is probably going to be a very difficult one to do and, you know, I'd like to talk about and take a cue on what that means. You know, from my perspective, it means a report that's going to have to, by necessity, basically discuss those aspects, now it's just a substantial number of the group that feel no further studies should be done and state that case while it may be “a minority position” of this group. And then - you know - that's going to be a headline.

And then another headline is going to be of the remaining participants which are a majority but not a broad consensus of, you know, the whole group. Of the studies that have been proposed, these are the studies that this group recommends and actually identify the categories or frame out some general terms to study areas that ought to be done. I know I'd like to get to the point where we could actually call out specific studies.

We may get to categories where a particular study or combination of studies might need refinement say based on cost or other factors. I mean, I recognize there could be a – I guess a nuance step in the selection of specific studies that maybe require another phase of communication and dialogue. But I just recognize as a social matter that the report itself is going to have some parts to it given where we are as a group. So any discussion on that?

(Steve Metalich): (Liz), this is (Steven Metalich). Could I get in the queue?

Liz Gasster: You can start the queue, because I don't hear anyone else.

(Steve Metalich): I think in general, I would certainly agree with what you've proposed. I think that whatever we report should , you know, include a – some type of summary of the viewpoints that there shouldn't be any further studies. And one thing I wasn't clear on was that you – what I heard you say was that those who decide – those who think there should be no further studies would have that viewpoint expressed but then the other participants in the group would go on to decide which studies to recommend. And I just wanted to clarify that that was the case.

Liz Gasster: Well, let's talk about it a little. I mean, if the folks who think that no study should be done also have views about, okay, if you're going to studies anyway, it's ridiculous to do these and these others might have some merit. I mean, we could certainly figure out a way to capture – in other words, I don't want to preclude those who don't think there should be studies from having any view if there are studies. And so that might be an important component and , you know, we want to hear from those who just don't think there should be any studies about how you would want to participate beyond that.

But clearly, we want to refine a recommendation to the counsel using the expertise of this group on what studies you do recommend so the counsel has your benefit of the expertise of those who do think more studies could be done who've really looked at these options and given a thoughtful analysis to the counsel about this is why we're selecting these - or whatever we're doing.

(Steve Metalich): Well, I'm not sure if that's the right way. I mean, I think if people think there shouldn't be further studies, that viewpoint should be reflected. But I'm not sure that then the input of those – the non-study people should be included in the recommendations for further study. I mean – or if it is, I think it should be identified as such because I think it's different to say I prefer this study to that study and I think this one will be more useful than that one or even I think this one is not worth doing but, you know, maybe the majority or consensus of the group is that it should be done.

And that's different than saying studies are a waste of time, there shouldn't be any and by the way, I'll also have my cake and eat it too.

I'll tell you which studies ought to be undertaken even though I think none of them should be undertaken.

Paul Stahura: Yeah, but we should – this is (Paul). We should understand why these people are saying that, you know, I mean on the surface it seems to me, a logical person on any study would be beneficial no matter what. But, you know, looking deeper, we should understand why these people think that no study should be done.

I think I have a guess of why but we should use not just the fact that they think no study should be done but the reason behind their coming up with that seemingly wacky statement. We should use a reason for that to help us figure out well, if studies are going to be done, which ones are, you know, more useful than others. It seems like they – even though they say that no study should be done, they should still have input on , you know, which ones might be more useful than others, at least based on their reasoning. So I kind of disagree with you (Steve). I don't agree with the cake and eat it too analogy.

Liz Gasster: Well I'll take a queue and definitely want to hear other folks. One reason I...

Woman: Excuse me, (Lisa) (unintelligible) now joins.

Liz Gasster: Great. Welcome, (Lisa). This is (Liz). One reason why you could see it important to have input let's just say from the registrars who clearly are hesitant to support for the studies but where their input might be particularly valuable in this as maybe less to do with yes, no, do the study or don't do the study is insights into complexity or data gathering or what would be involved in performing a study since I suspect that

the registrars are going to be, if you will- some of the information that the registrars have is going to be needed for some of these studies.

So the degree to which some studies might actually be executable, or some of the strengths and weaknesses of the data results given, how they might be performed, I think there might be useful contributions from the total team. I think (Steve Metalich) is raising an important point in terms of, I guess, the scoring, if you will of – and I'm wary of that whole area because I recognize that we, you know, have a microcosm of the world on the call and not the whole world.

So we need to think about how we're going to actually calculate for lack of a better word, the contributions and viewpoints of everyone. And what I've initially started to do because we're at a pretty simple part of the scoring – and I use "scoring" again, in quotes. It's just to have everybody's name and everybody's vote on a spreadsheet that I can then send to the group which will at least memorialize where people are at the sort of initial cut.

I think we should have more dialogue on (Steve)'s point but I also could see why, you know, we don't want to preclude the participation of the total team because there are some specific challenges in these studies. So let me just run through what I want to accomplish on the call, too before we go back to this point because I want to leave enough time for everything.

We started this discussion, which is - really gets right to the heart of , you know, how we're going to formulate a recommendation by my initiating conversation about what we're going to say to the counsel about deliverables and time frames for deliverables. So we still need to

make sure that we have general agreement about, you know, what I should say in an update memo to the counsel since we're not going to make the deadline of April 24. And I can either say, you know, again, I threw out the idea of May 22. That could way too soon. It could be painfully protracted to some but we do need to provide an update and we do need to provide a date by which at least we would give another update but where we'd hope to really make some progress.

And we've started to talk a little bit about the crux of how we would come to some decisions and what our report should look like, which is a vital part of the conversation but , you know, we have a short-term deliverable and a question that we need to answer on today's call and you know, then we can talk about the next steps and how to go forward once we have this.

But I also want to quickly just note for you that next call, which is the 29th, I can not be on the call and no one from the policy staff can cover for me. So if you guys could be thinking about who could step in for me on then 29th and what the – what we should try to achieve by the 29th so that that person has an idea of what they want to really drill down on and then I can pick back up on May 6. So let's try to finish up on – can we fill out a target alternative date to the counsel and give them an update which I will draft.

Man: (Liz)

Woman: (Wendy)'s in the queue please.

Liz Gasster: Okay.

Man: (Unintelligible) in the queue.

Liz Gasster: So who is that? (Patrick). Okay. Anyone else?

Stéphane Van Gelder Yeah. Put me in the queue, please. (Stephan).

Liz Gasster: (Stephan). Okay.

(Steve Metalich): (Steve Metalich).

Liz Gasster: Others? Okay, (Wendy).

(Wendy Seltzer): Sure. I guess I just suggest that we're not likely to reach consensus among this group and the best we can accomplish is the tally along with the reasoning that people have given for their rankings. In the interest of getting these things done quickly, I would recommend one more call when you're available to join us and that we wrap up work then. I don't think that we will get closer to consensus or closer to elaboration with a month more work.

Liz Gasster: Okay. Thanks (Wendy). (Patrick)?

(Patrick): Two things. So if the next call tentatively scheduled for April 29 happens at the same time, I could cover it for you as long as it doesn't conflict with the board call. I don't know what time that's scheduled for.

Liz Gasster: Okay, thank you. That's great, (Patrick). Appreciate it.

(Patrick): Another item and since the group just received the (GAK) recommendations for (unintelligible) studies. Can you give some discussion to that?

Liz Gasster: Yeah. That's a real – that's the other thing on the agenda that I did want to cover. So we obviously need to incorporate into our thought process, the (GAK) recommendations. And I'm – one of my tasks to do that I'm behind on is just to map the (GAK) recommendations to the seven categories so that we can still for now work with – and I think that's doable based on my cursory read of the extensive list of recommendations in the (GAK) recommendation so that we can still focus on the seven categories for now.

I think there are some very important aspects to the (GAK) recommendations that when we get into the next cut of refinement, we'll need to consider. But at least you will have a mapping from me hopefully by the next call that will correlate those (GAK) recommendations to the seven categories so that they can be considered together.

I would like to ask (Wendy), given her point about not prolonging this, and I'll get back to the queue, just about your thought of if we get to the point, which I think we can pretty quickly, of getting everybody's tallies of the seven categories, we're still not at the actual study that can be – that the group is recommending be done or not be done.

And I know there are some strong views about some specific studies within those categories that may or may not be feasible. And so I just – maybe we can come back to you at the end and go through the queue but I'd like to get your sense of how we would deal with capturing

views on the specific studies given the time frame that you've laid out. So why don't we go through the rest of the queue, but (Wendy) I just want to follow up with any thought you have about that. Let's see, (Stephan)?

Stéphane Van Gelder: Yeah, thanks. Just two short points. The first is I won't be available for the next call if it's on the 29th and the second is that I feel we've got to take things in order and we have to decide as a group first whether we want to recommend as a group further studies or not before deciding what studies should be recommended. I feel that the views that have been expressed for and against doing further studies have been quite strong and I don't know what the mechanism is, maybe a vote or whatever, but we need to get that issue nailed before moving on to something else.

Liz Gasster: Thank you. One challenge with that I think that people are struggling with and I'll just comment briefly, is that it's going to be very hard to reach consensus on that point, yes or no, do we or don't we. I think people recognize that that's probably an area where it's unlikely to reach consensus and so what we're left with is what I have termed for lack of a better expression, a significant minority opinion that, you know, for strong reasons, as you say, no further studies should be done.

So, you know, for the moment, in order to enable us to continue to have a discussion on, I guess a more nuance discussion on particular studies, we're acknowledging that but I think – and I'm certainly happy to take a queue and have more discussion on this – steps that might be engaged in other working environments try to reach consensus are not likely to be fruitful here and that might just be my own, you know,

judgment that should be reconsidered. So I'll take a queue on that and get people's perspectives but just definitely, you know, give you some background, I think that's part of the challenge here that people are struggling with.

Stéphane Van Gelder: Okay, thanks.

Liz Gasster: And (Steve)?

(Steve Metalich): Yes. I would suggest that we scrub the meeting next week since I think continuity of staff is important and some people can't be there anyway and that we meet again in two weeks.

Woman: Excuse me, Mr. (Rou) has now joined.

Liz Gasster: Thank you.

(Steve Metalich): And I assume by that time we'll have this chart or spreadsheet that both tallies our views and kind of maps in some way what the (GAK) said. And I'm not – unlike (Wendy), I'm not prepared to conclude that that chart will show that we can't do anything more productive. I mean, it may show that, but let's look at the chart first.

Liz Gasster: Sure.

(Steve Metalich): And I think your suggestion of May 22 is – for our target date for our report is reasonable. You know, we – well, the better sense of that after we look at the chart, but I think in default of any other date, I would – could certainly support that. Thank you.

Liz Gasster: Thank you.

Lee Eulgen: (Wendy)?

Liz Gasster: Other discussions?

Lee Eulgen: (Liz), this is Lee Eulgen. I just – building upon that, I mean, and (Stephan)'s comment, my sense is that we really are at sort of the end of the discussion at least for the time being regarding the issue of to study or not to study. I thought your characterization at the outside of the call of, you know, that I mean, we have some divided camps it seems like in terms of sheer numbers that it's a minority that supports the notion of not studying further and a majority that supports the notion of studying further, although, you know, everyone sort of has their own reasons and their own particular studies that, you know, for which their particularly advocating in supporting the notion of conducting further studies.

But I agree with (Steve)'s point on, you know, I don't believe that further conversation, further discussion of which studies to pursue, I don't believe that that would be fruitless. I mean, I know that everyone has sort of sent in their rankings, but I certainly haven't been, you know, keeping my own tally of , you know, what people are prioritizing what. And I feel like having the compilation that you're going to put together (Liz), along with that mapping of the (GAK) recommendations will be very helpful because again it may identify for us and I don't presuppose to know that this is the case but it may help identify for us that there actually are some places where we can identify a bit of a consensus with respect to the priorities among the groups

Liz Gasster: Thanks, (Lee). Other comments?

(Wendy Seltzer):Yes. This is (Wendy).

Liz Gasster: Yeah.

(Wendy Seltzer):I'll jump back in with, you know, what I think on the designing the studies. I do think that it would be useful for the group to comment on that. I think probably the design itself would be best done by staff with some statistical and research design input to recommend...

((Crosstalk)).

Liz Gasster: Yeah. Bless you.

(Wendy Seltzer):To be brought back to the group after whatever period that design were able to be done and then we could comment more usefully on how feasible these studies would be if it turns out in order to get a statistically valid sampling of either of abuses of who is or abuses of privacy services. You'd have to sample 100,000 people and that would cost \$300,000. Even those who strongly supported those kinds of studies might suggest that that was an infeasible study at this time. On the other hand, if a much smaller sample would be valid, it might be possible to do more studies. So I think we could be better informed by sending the problem off. We that is, not you I'm afraid and letting you come back with some concrete designs for us to consider.

Liz Gasster: But I think, actually, (Wendy), I think your point is a good one to talk about for a couple minutes, because clearly, the counsel envisioned this in its original schedule, that earlier resolution that looked to have,

you know, this public comment process evaluated and study suggestions, but then to have this recommendation to the counsel, they would select certain studies that would then go back to the staff for more feasibility and costing.

So I think it's an important thing to note that for this process, what we've envisioned was recognizing that there could be complexity or feasibility challenges that could further affect decision making, leave that somewhat aside for this initial effort and focus on what would be most useful and the questions that would be most important to be answered in this tie between further studies and informing the policy debate, knowing that whatever recommendations you put forward to the counsel, the counsel is going to identify those that they want to pursue or not.

But in the event that they do, their next step was to forward it back to staff to do this further analysis on cost and feasibility which would, you know, get done following that and then the counsel would make a further decision. So I'm not sure all of that is laid at our feet today. I think what is laid at our feet is trying to make some sense of all the recommendations and, you know, put them into these – to at least categories of specific studies we think would be useful from a policy perspective so that they could then go back and have a - price it out or price those referrals out.

Other thoughts and comments? Okay. Any more discussion on the 22nd is at least our next goal. I understand it's drawn out a bit, but with the idea – and so we're going to skip next week but can I, for those – I know a couple of folks aren't on the call that haven't submitted. (Paul),

do you – can you foster – can you give us your vote not necessarily on the call but in the next couple days?

Paul Stahura: Yes. I want to put bunches on the list today.

Liz Gasster: Okay. And then I think I have everyone else's except (Tony Harris), (Eric Bruner-Williams) and I'll double check on (Danny). More input from (Danny).

(Danny): (Danny)'s on the call.

Liz Gasster: Oh, hi.

(Danny): My recommendation was not to proceed with study.

Liz Gasster: Okay. Thanks. And I'll incorporate that. I will put together this spreadsheet in the next couple days and the reformatting of the policy recommendation. We have agreement, it sounds like, to skip the next call on the 29th, to restart on the 6th and we will drill down into those areas that have the greatest level of support. You know, at least talk about where the rankings leave us as the first order of business. Oh and I should definitely by next week have the mapping of the (GAK) studies to the seven suggestion categories that have already been defined.

So we can probably conclude the call now unless there's more to discuss about – unless folks would like to discuss further how we would proceed once we have everyone's tallies.

(Ken Segal): (Liz), this is (Ken Segal). You'll just do a brief summary of what we've decided to the list then so that everyone – make sure we're on the same page?

Liz Gasster: Yes.

(Ken Segal): Okay.

Liz Gasster: Anything else? Further discussion at this time? Okay, great. Then we will reconvene on May 6 with all of these deliverables that I owe you. Hopefully done long before then. Thanks very much for your participation.

Man: Thanks everybody. Bye-bye.

Man: Bye.

END