

**GNSO**  
**Inter-Registrar Transfer Policy A PDP Jun08 Working Group teleconference**  
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**Note:** The following is the output of transcribing from an audio recording of the Inter-Registrar Transfer Policy A PDP Jun08 Working Group teleconference on 25 November 2008. 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:  
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Participants present:

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Barbara Steele - Registry c.  
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Staff:

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Man: Thank you very much. Glen if you will, will you please do the roll?

Glen DeSaintgery: Certainly (Paul). We have (Paul Diaz); (Barbara Steele) from the Registry Constituency; (Mike O'Conner) from the Business Constituency; (Kevin Erdman) from the IPC; (James Bladel) from the Registrar; (Mike Rodenbaugh) from the Business Constituency and (Mike Collins) from the Business Constituency. And then from staff we have (Marika); (Olof) and myself.

Paul Diaz: Thank you, Glen. (Guess) and hopefully a couple of others will be joining.

Glen DeSaintgery: Yes.

Paul Diaz: Very good - all right everybody. Thank you for being on the call. Thank you very much for taking the time for all our U.S. based folks especially before the long holiday weekend.

Want to get right into it today. We've had a couple of very, very substantive calls in the last few weeks focusing on partial bulk transfer terms. One question that we have put out to both our colleagues in Registry Constituency as well as staff was going to reach out to ICANN Legal was focused on the question of the existing bulk transfer terms.

Do they apply to all names under management by registrar? Or are they to be understood to apply to all the names within a particular TLD? So in other words if you want to do a - in some of the scenarios we've played out if a registrar was no longer going to serve - service a particular TLD, could the existing bulk transfer rules apply since all of those names in that (name) needs to be transferred. Or is it actually all the names under management?

(Barbara) you had said that you've reached out to some of your colleagues. Could you please share with what - share with us what you found?

(Barbara Steele): They generally thought that the existing bulk transfer terms would allow for the application of the provision only (if it) remains within that particular TLD because if you look at, you know, the little Item 2 there.

That just basically indicates that ICANN may approve the transfer of sponsorship of all the registrations as a result of the (lack) of observation with a registry operator.

So it sounds to me like if a registry operator would have an issue and go to ICANN with that issue, a registrar may be accredited only for a particular TLD. And ICANN could authorize a bulk transfer of the domain names specific to that TLD from one registrar to another.

So I mean that's basically how we were reading it. I don't know if the legal team has gotten back from ICANN or not on that as well.

Olof: Olof here. I can say that that concurs pretty much with the, I would say, not still verified answer I got from our legal team that their impression was that a bulk transfer would be possible if the registrar came anyhow to lack accreditation with a particular registry.

So it leaves it a bit in the gray zone. So what happens, for example, if a registrar asks to be released from the registry rather than being the accredited by the registry. So - but in the latter case seems which you referred to as well, (Barbara), it seems like it would indeed be possible with a bulk transfer.

I still need the confirmation from (Dan) though. But that was his first impression.

Paul Diaz: Okay.

(Barbara Steele): And I mean we've actually seen a couple of registrars recently who have gone to ICANN and requested, you know, termination of their

accreditation. Which, you know, I believe that was across the board for all TLDs that they were managing. They decided to just get out of the registrar business altogether. But it seems like they would be able to do that for one or all as well.

Olof: Okay.

(Barbara Steele): Because it would be a voluntary situation that I (can't facilitate for them).

Olof: Oh that would simplify our life at least a bit.

Paul Diaz: Yes agreed, Olof, it would. And, in fact you know, Marika I hope you're part of those conversations; Olof in legal so that we can when it comes time to take a whack at some draft language for this section, you know, if we seem to have concurrence -- I guess in some of our scenarios -- you know, we can make the argument are already covered under the existing bulk transfer terms.

As we had discussed last call, you know, it's worth making that explicit so that we have in writing somewhere, you know, this finding that will assist registrars and the registrants in the future moving forward.

Olof: Couldn't we - Olof here again - two questions. First of all Marika I haven't heard anything more from (Dan). But maybe you have. And secondly well I suppose we could put it as an assumption that this is the case in our report.

Marika: I haven't heard anything. This is Marika. I haven't heard anything further either. I know that (Dan), I think, was going to check with some people internally. So I can follow up with him on that one.

But in the meantime, you know, I'm happy to include it in draft language. And, you know, if it's different we can still make that change once we get the final confirmation.

Paul Diaz: Does that make sense to everybody else on the call that we would, you know, make this assumption, put it into our draft, leave time for, you know, any updates that are necessary. Because legal comes back with a clarification but proceeding this way just seemed like the right thing to do for the group?

(Mikey): This is (Mikey).

Paul Diaz: Hi (Mikey).

(Mikey): I think it's a great idea. I think it might even help legal if we did a tentative draft because then they could take a look at some precise language. And it might give them even something more substantial to work on.

Paul Diaz: Okay good. All right so then if - and depending where it's (saved) for you all -- probably in email -- the scenarios that we've listed I think we're up to five now.

If, you know, refresh people's memory or better yet if you can pull it up so that you're looking at what we have; just to make sure that we're all

in agreement on which of these scenarios we feel now are already covered under the existing bulk transfer policy.

Our first scenario we're talking about a partial transfer following the accreditation of a reseller. Then we (flesh) out saying the reseller becomes ICANN, the (accredited) registrar may decide to become a (registrar) record for those domains for which it has been accredited.

((Crosstalk))

(Barbara Steele): This is (Barbara). Some of the conversations -- because there was actually some feedback that I received relating to some of the various scenarios as well -- was why, I guess, if registrars, you know, between the two registrars involved if we actually need to get into all the various scenarios.

Because, you know, at the end of the day if, you know, A registrar agrees, you know, a set of domain names should be transferred to registrar B and certain other criteria is met whether it be, you know, notification to go to, you know, (registrar) notifying them of the change or what have you. And there's agreement all around that this should occur, it just seems like, you know, they would be able to go to the registries to facilitate that.

Man: Okay what do folks think of that position?

((Crosstalk))

(Mikey): This is (Mikey).

Man: Yeah (Mikey).

(Mikey): I think we've - (Barbara) I guess the question I've got is would it be a bulk transfer or would it be a partial (bulk transfer)?

(Barbara Steele): Well I think it would be a partial bulk transfer. They would have to provide a list of the domain names that they're looking for to be transferred. And both of the registrars would need to be in agreement that those names could indeed - should be transferred from one registrar to the other.

(Mikey): Is that the same as Scenario 1? That seems like another - that seems like a subset scenario rather than a Scenario 1 where it's all the names and...

(Barbara Steele): Well I mean at the end of the day the registries aren't recognizing the reseller in any way, shape or form. Now the registrar of record for the domain names would be the accredited registrar that had the relationship with the reseller.

If the reseller then becomes accredited, they now are an accredited registrar. And I would suspect that they have some sort of a written agreement with the former accredited registrar that would dictate under what circumstances they would be willing to transfer the - their portfolio of names.

Because there has to be something, I would think, within the registrar records' database to indicate these are domains that are under the management of the reseller, if you will, right?

(Mikey): You know, as you lay that out -- this is (Mikey) again -- sort of from the consumer's standpoint what makes me nervous is not having any ICANN standards surrounding that and (their), you know, so now we're dependent on a whole bunch of contracts that might be good or might be bad or might have errors in them or something.

And, you know, my perennial fear is that somewhere in the shuffle somebody drops the ball. And there's no accountability for that. So I'm pretty interested in the idea of having that transfer be visible to and subject to some oversight by ICANN.

So I guess I'd push back a little bit on the notion that this can all be handled between registrars and registries without some standards that surround that.

Paul Diaz: Okay a concern that I would have also, (Barbara). I think I lean towards (Mikey)'s position that we probably need to have some clarification here. Because if a reseller, you know, the scenario we've set up (it)'s the names that they are the registrar for, okay? That's straightforward.

But in the case where the reseller also has its own customers, you know, and they are not necessarily the - they were never the registrar of record initially obviously as a reseller. But, you know, we would have - we could potentially have some names that they would also want to move into their new registrar of record.

And, you know, I think we get back to we're going to need to define some form of notification, et cetera. So that if they, in fact, want to move the names that they felt that they were responsible for as a reseller but not necessarily they were the registrant for all of them,



(the) - are folks seeing the - what are the cracks that some folks could fall there here. I don't know...

((Crosstalk))

(Barbara Steele): I mean those are resellers. Oh, sorry, go ahead.

Paul Diaz: Yeah let's just imagine, you know, you have a reseller which realistically could be a large ISP. Okay and they have some number of domain names that they have for their own use - their own business use. All the rest are for their customers.

Let's say a better example would be a Web hosting company. And, you know, they may appear as a technical contact in the (Who Is) records for the name but that's it. If they decide to become -- and do in fact become -- an accredited registrar, it seems reasonable for them to want to move all of the names that they have a relationship with into the new accredited registrar base.

It seems to me they have a perfectly valid argument saying well the names are their own. They own the registrar and the record for it. Of course they can get moved.

But what about all the others where they're supporting customers? They'd want to move. It seems to me there we are talking about a partial bulk transfer terms.

The existing bulk transfer doesn't apply or at least doesn't envision and then therefore we're back to the focus of this particular issue in our Charter. Are there...

((Crosstalk))

(Barbara Steele): And I would definitely agree that the traditional bulk transfer would not apply. But I think that this first one is probably the one that would be the most transparent to the actual registrant. Because the registrant doesn't really realize that their relationship or that their registrar of record is the ICANN accredited registrar.

They have their contracts with the reseller. I'm not saying that there shouldn't be a notification that is provided to them as part of it. But, you know, if anything I think this particular case would be -- as I said -- the most transparent because their relationship is still going to be with the reseller.

The only changes that are occurring in the database is the registrar of record which would now recognize the reseller as an ICANN accredited registrar and show in the (Who Is) at the registry level.

Paul Diaz: Okay others' thoughts on this in particular the issue of, I guess, it comes down to contracts; the relationship - the contract that exists between the registrar and the reseller who is now becoming a registrar. What about the contractual obligations between the - I guess we would call it the losing registrar of record and the reseller?

You know, of course, the losing registrar has its obligations to ICANN; in particular, consensus policy for transfer. Getting back to -- and I think there's general agreement -- that there will need to be some form of notification here.

What else? Are there other things that we need to address or are folks confident that the - or the way that we're sketching this out that the registries already would have enough to work off of with the existing bulk transfer policy and notification. Or are there other things that we need to consider?

Man: (Paul) this is (unintelligible).

Paul Diaz: (James).

James Bladel: Yeah I just wanted to kind of comment a little bit on thinking about what (Mike O'Conner) recently said as well is that visibility and influence over the relationships between a registrar and its resellers is, to me, just seems like we're straying into a touchy issue with respect to ICANN.

I don't know that I'm fully comfortable with some of the thoughts or suggestions that ICANN should sanction or control or manage or have standards in place with the different contracts between registrars and their resellers.

I don't know - just a little nervous about some of the - some of those ideas.

Paul Diaz: Okay...

Olof: Olof here thinking aloud - I mean well so far resellers are animals that don't exist from an ICANN perspective. And that's - there have been discussions about changing that, of course. But formally speaking they

- they're not there until, for example, when in the movement they become an accredited registrar.

So the transition is what is perhaps is a tricky matter too to identify what a non-existing entity and turning into an existing entity what sort of preconditions should be for this to be something to be vetted by ICANN.

I think in the first place it would need to be some kind of recognition of the existence of resellers from a formal point of view for ICANN to take some kind of vetting role in that kind of transfer.

James Bladel: And I think, Olof, that you've said it much better. I apologize to the group. I have a little bit of a head cold so I'm a little slow today. But it's the idea that - well the word reseller has no meaning, I think, within the context of ICANN.

So anytime we build upon scenarios - I just think that perhaps staying away from that term and making sure that we're saying that when we say reseller we're actually, you know, the onus is on the registrar of record at all times. And they do not pass down obligations to resellers. That relationship is out of scope, I guess.

(Mikey): This is (Mikey).

Paul Diaz: Hey (Mikey).

(Mikey): You know, I think it may be a sequencing issue. And I may have confused matters a bit. I'm fine with the notion that resellers are

invisible to ICANN in this context. I wasn't really attempting to get into that realm.

What I'm trying to avoid is a situation where after the reseller has become a registrar, the contracts - the process is not subject to ICANN's oversight. So, you know, before - as long as the relationship is between a reseller and a registrar, I'm - that's not really what I was thinking about.

What I was thinking about is presumably the sequence would be that first the reseller becomes a registrar and then the transfer takes place. And I think it's that transfer and the relying on contracts rather than ICANN policy that I'm worried about.

Paul Diaz: So from the perspective of - the paradox that we're trying to wrestle with here is that from ICANN's perspective that scenario is there's a brand new registrar that blipped onto their radar screen. And there's going to be a transfer from an existing registrar to a new registrar.

But from the perspective of the two registrars and the registrants, there's this incumbent relationship there that might involve - or place new obligations for notification onto the gaining and losing registrars.

(Mikey): Right.

Paul Diaz: (Is) that...

(Mikey): Yeah and I think it's - I think it's in the sequence. I think as soon as the reseller becomes a registrar, they - (well) they blip on the screen and become subject to a new set of rules.

Paul Diaz: Yeah.

(Mikey): And that's, you know, I - (Barbara) what I heard you saying was that they would blip on the screen but they wouldn't need to be subject to those rules. And that's what made...

(Barbara Steele): Well I think...

Marc: Well (aren't they subject) to those rules by virtue of the fact that they now are - sorry this is Marc. I joined a little bit late. But aren't they now subject to all of the rules since they are an accredited registrar?

(Mikey): Yeah I think that's right but...

(Barbara Steele): That would be my impression as well.

((Crosstalk))

Marc: But I mean what I'm confused, (Mikey), about what you're saying is I just don't see that they have any necessary right or ability just because they're now a registrar to transfer all those domain names over. They may...

((Crosstalk))

...have some ability in their contractual agreement with the ultimate registrant to do so. But I think - I mean just by virtue of the fact that they happened to have been a reseller for a registrar now they're a registrar, that doesn't give them any special status in my mind.

(Mikey): Well that's where I'm misunderstanding what (Barbara) was saying. (Barbara) can you chime in and sort of clarify my misunderstanding? Because what I was hearing you saying was that in this circumstance, the registrar would blip on the screen but then those existing contracts between the registry/registrar and reseller would guide the behavior rather than...

Marc: Well they would have to because all parties involved as well as the domain name at issue would still be subject to all the contractual provisions of the original agreement between the registrant and the reseller which is now a registrar as well as the reseller and the original registrar that it worked with. Just because all of a sudden now that reseller is a registrar doesn't change any of those contractual agreements.

(Barbara Steele): That's exactly right.

(Mikey): Then I think I'm still nervous.

Marc: But there's nothing you can do about that. The contractually bound themselves to these agreements both the registrant and the reseller. And so now just because they made a business decision to decide that now they want to be an accredited registrar doesn't mitigate all these other contractual agreements they have just because they made this business decision.

Every time a company makes a business decision there's certain benefits and there are certain costs. The cost to them is they may have to wait until their existing contractual provisions are terminated. But just

becoming accredited doesn't do anything to change the existing contractual agreements.

Man: Well the other thing to think about is just that a lot of this stuff has to do with well what's the sort of the boundary on those contractual arrangements. And most of these contractors - contracts have enough wiggle room and ability to, you know, defer or prevent liability that I, you know, I look at this as more of a transitional question that the parties figure out themselves.

I mean that's to something that we should really worry about that much. Our main worry is what's the obligation of the registrar to ICANN. I mean that should be the thing we focus on. And what these other private agreements are, you know -- although relevant to the discussion -- shouldn't determine what our decision is going to be.

(Mikey): Okay this is (Mikey) again. I think that if - let me see if I can clarify my concern. I think if the transfer takes place subject to the safeguards of ICANN's oversight of the registrar, then I'm fine.

Marc: But it would have to because all transfers between registrars are under the authority of...

Man: (Right) - yeah...

Man: ...ICANN.

Man: ...that's a definition of consensus policy. I mean...

((Crosstalk))



(Mikey): Right and then so what I don't understand in (Barbara)'s point is why that transfer wouldn't be subject to the partial bulk transfer stuff that we're working on.

Marc: (Well) just because a transfer is subject to ICANN doesn't mean that it's necessarily eligible for a bulk transfer or that it is bulk transfer. I mean those are two separate things. I mean transfers happen everyday that aren't part of - parts - they aren't part of bulk transfer.

(Mikey): Right - no, no - what we're working on this notion that in Scenario 1 that partial or bulk, you know, I'm not clear on which one applies -- but one or the other of those -- wouldn't apply. And I'm nervous about that.

((Crosstalk))

Olof: Olof here. I think that...

((Crosstalk)):

Olof: ...well it's very unlikely that the bulk transfer - the full bulk transfer scenario would apply because they - it's unlikely that the registrar of record -- well call it the losing registrar -- would only have this reseller for a particular (dTDL) base.

Man: Right.

Olof: So it would be either - well transfers as they've always been meaning that it calls for the registrant to - or that main contact to initiate it or

something else -- which would then be the partial bulk transfer -- initiated by the newly borne registrar.

(Mikey): (Right) and I'm fine as long as that's the way we're going it; as long as it's being subject to either existing ICANN policy with the registrant or the new one -- partial bulk transfer -- I'm fine. But what I'm not comfortable with is no, no this is all covered by existing contracts. And ICANN doesn't necessarily need to be involved. I'm very uncomfortable with that.

Marc: But there's no transfer that can take place that isn't under the privy of ICANN.

Man: Yeah...

Marc: I mean the question is - I mean ultimately the transfer is subject to contractual provisions because (of) there's a question of can a domain name even be transferred? That's subject to contractual obligations that, you know, may be in that agreement between the registrant and the reseller. The registrant gave the registrar the ability to, you know, at will make a de facto transfer of all domain names, you know, at its own decision.

But otherwise if the registrant didn't do that then just because the registrar - just because the reseller became a registrar (it) can't just transfer the domain names. But once that transfer occurs any transfer between two registrars is subject to ICANN authority and all the obligations between the - between registrars and the registry.

(Mikey): Yeah and that's back to my sequence thing. As long as the sequence is that the reseller becomes the registrar first and then the transfers take place, then (unintelligible)...

((Crosstalk))

Man: But how could it be any other way?

Man: Well...

Paul Diaz: And it really has to (Mikey) because as we've gone over since the beginning of this particular working group, I mean the charter question is, you know, are there - is there need for partial bulk transfer terms and then I underscored between registrars.

(Mikey): Right.

Paul Diaz: That's a fundamental condition that has to exist.

(Mikey): But then I don't understand (Barbara)'s point.

(Barbara Steele): Maybe I can clarify. Right now registries can only affect a transfer that is either initiated by a registrar as - in response to a submission by a registrant and the - and providing the form of authorizations -- the standardized form of authorization under the bulk transfer policy -- or not even bulk transfer but just the transfer policy.

And that would go (through) the normal course where basically they could send individual transfer commands to the registry. And that would fall, you know, very much under the IRTP.

The other circumstance that we can transfer domain names is if we're instructed under Part B of the IRTP in a bulk fashion when approved by ICANN. And it's under those circumstances where basically a registrar is the de-accredited or basically goes out of business. So those are the only two instances where we can do it.

And in that fashion then we basically just take all of the domain names from Registrar A and transfer them to Registrar B which, of course, has to be another ICANN accredited registrar. And we do that at the instruction of ICANN.

Those are the only two (times) - two instances where we can transfer domain names from one registrar to another. If you want to consider a partial bulk transfer, I think there needs to be some additional rules put in place within the transfer policy to govern that.

But I don't know that we want to go into a lot of, you know, it's okay in this case, this case and this case. I think at the end of the day from a registry's perspective what we're going to be looking for is that Registrar A who is the registrar of record agrees that, you know, this X group of definite domain names -- a definitive list of domain names -- is to be transferred to Registrar B. And Registrar B agrees that that's the case.

There may also need to be some provisions in there that require registrars to either have a blanket form of authorization from a registrant if it's as a result of a - an offering that the registrar makes available to registrants to be able to manage their portfolios and transfer a whole or part of their portfolio from one registrar to another?

Or, you know, it may be because in the first case that we're talking about that a reseller has now become accredited and, you know, would like to take their portfolio with them.

But there - at the end of the day there has to be agreement between the registrars that are involved. There has to be a definitive list of domain names. And I believe there also needs to be some sort of a notification to the impacted registrants.

How the registrars want to roll out the various products that they may make available or the types of relationships that they may have between a registrar and a reseller, you know, I think that that's going to have to be governed by those particular registrars.

Man: I think ultimately it seems to me to be (just) a marketplace solution. Because all that stuff can be done right now. I mean at the end of the day every registrar - every registrant has a choice on, you know, which reseller or registrar it wants to work with.

You know, maybe there isn't as much knowledge out there as there should be. But the bottom line is I mean it's a free market. And they can choose whoever they want to. And they should as educated consumers take more interest into, you know, which vendors they're using. And in the same sense, you know, every reseller has choice of which registrar it wants to work with.

And so if you're a reseller who think you may - thinks may be - may want to become accredited in the future, then it would behoove you to

search for a registrar that has the facility that will allow you to transfer domain names more easily once that happens.

But I'm not sure I - I mean the more you talk about this the less I think that this is a policy issue.

Paul Diaz: (In) our existing draft right now we do highlight market solutions already exist to your point, Marc. And in some of these scenarios it - there may not be a policy consent here. There may already be an existing market solution that works within the rules that are currently in place.

Marc: Or (if) not an existing market solution I mean the possibility of creating one which I think is just as valid.

(Barbara Steele): I mean (new star) went out and put in place their (BTAPPA) which in, you know, bulk transfer. (Well they) - I guess it's a partial bulk transfer due to acquisitions. So, you know, other registries could follow suit and do that same type of situation and put it out there as a new (unintelligible) service; registry service just as (New Star) did.

And I think that, you know, some of the registrars that are participating in this call also have solutions for portfolio holders to be able to manage their portfolios and help to facilitate the transfer if they want to take their portfolio from one registrar to another. So yeah I think there are (market) forces.

But if we're looking to do it, you know, using the bulk transfer tool that registries have available to effect the full bulk transfer -- as instructed by ICANN -- then like I said there's just going to be some rules that we

would need to know. And there may very well be a price that registries would want to charge for that.

Paul Diaz: Okay so an interesting trajectory on this call (because) we seem to be - have come around - come way back to the position which was held much earlier in this working group's efforts that, you know, perhaps between market solutions and in some of the scenarios we've listing to the existing bulk transfer terms already apply. And maybe we don't need to continue with policy work. This is not a policy issue.

(Mikey): This is (Mikey).

Paul Diaz: Hey (Mikey).

(Mikey): I really want to strenuously disagree.

Paul Diaz: Okay.

(Mikey): I think the problem with this particular call that we are all over the map on this particular topic. We started with my reaction to (Barbara)'s first description which I can't recreate because I didn't understand it.

But it was quite different -- at least it sounded quite different -- than (Barbara)'s second version. And then that's what took us off on that trajectory. So I really want to strenuously disagree that we're stepping all the way back to the beginning because I certainly don't feel that way.

Paul Diaz: Fair enough.

(Michael Collins): (Paul) this is (Michael Collins).

(Paul): Yes (Michael).

(Michael Collins): I would agree that if you look at the five scenarios you will see that many of them are not covered by the full bulk transfer in that the regular transfer (involves) a completely different (fee structure). So I think that there is a reason to consider these scenarios.

I think I understand (Barbara) but I'm not sure in that we don't necessarily need to spell out these scenarios in our - into any policy that we suggest but that we might just consider that - them as a tool for creating that policy.

(Barbara Steele): That is the point that I was trying to make. And I am sorry that if, you know, if I was unclear in that.

(Mikey): This is (Mikey). I'm fine with that approach. What I don't want to do is launch a lot of domains in transfers that registrants can't control. So I'll just leave that inflammatory statement on the table and let's get back to work.

Paul Diaz: Okay and it's a fair statement - not inflammatory (Mikey). And I was by no means trying to push the group into a particular direction. It just seemed that's where discussion had taken us today. And agreed let's try and focus, get back.

If - and (Michael Collins) I agree with you. I think looking at the list of scenarios we have, are second and our fifth. But we're talking about partial bulk between registrars is number 2. And basically the scenario



that, you know, conceptualized that for whatever reason a registrar is no longer going to sell domains for the TLD in question therefore they want to move those particular - the domains in that particular TLD space.

Scenario number 5 it's following a de-accreditation of a registrar, you know, both of those scenarios two and five, it seems, are covered under the existing bulk terms. That leaves us with (the) three and any other subsets that we may have. So, you know, it does seem like there's plenty more for us to look at in terms of partial bulk terms.

I guess the fundamental question we have is sort of what's just mentioned. Do we try and address this in the construct of some particular scenarios that we highlight? Or can we come up with, you know, just some fundamental terms that would govern or apply in a partial bulk transfer scenario?

And again I guess one thing that needs to be made explicit and, you know, looking for group's thoughts on this. When we're talking about a partial bulk, I mean we are talking about the scenario like in a bulk transfer where the expiration date is not moved and there is no new registration fee (vetted), you know, to the transaction correct?

As opposed to, you know, existing market services that are out there where, you know, a registrar will assist a registrant in putting together a master list of all the names. But when those names are transferred they are done under the regular transfer policy; a year or however many years the registrant wants are added in the appropriate registry fees and any other fees by the registrar are added.

So when we're talking about partial if we continue down the path, it's under the understanding that this is for - this handles the names in much the way the bulk does; i.e. there is no extension of the term and there is no assessment of a new registry fee. (Am I) correct?

(Michael Collins): This is what I think we (unintelligible) should be considering. I agree. It's (Michael Collins) again.

Paul Diaz: Okay.

(Barbara Steele): I agree with that as well. As far as the standard pricing for a transfer would not be an applicable...

Paul Diaz: Correct.

(Barbara Steele): ...registration fee. Like I said there may be as in the case of (New Star) where there is \$1000 (at 20 cents) a domain name administrative type fee.

Man: Right - good point, (Barbara).

((Crosstalk))

(Michael Collins): ...charging fees as well I think.

Paul Diaz: Sure.

(Barbara Steele): Right.

(Michael Collins): (Possibly).

Paul Diaz: We've touched on that before and absolutely agree. But just so that we're all on the same page here, if we continue talking about partial bulk, the understanding is that this - these names that get moved under these terms would look like a bulk transfer; i.e. the expiration date doesn't change. And there is no like annual registration fee assessed.

(Right) - okay.

(Mikey): This is (Mikey). I'm in on that.

Paul Diaz: Okay.

Marc: This is Marc. I totally agree with that standard; however, I question whether there's any need for any policy basis for enabling Scenario 3.

Paul Diaz: Okay why don't we look at three then. If you all have it in front of you here we're talking about a partial bulk transfer in the case of parenthesis partial merger per acquisition involving a registrar. In other words we're saying as a result of the partial merger or acquisition by a registrar, a number -- but not all -- domain names are transferred to the registrar.

And I have to note I am reading this from our original posting not from (Mike Rodenbach)'s edits. And I think (Mike) actually clarified this a bit. Okay for - at least for number 3 we didn't have any changes. But I'm sorry - no. I'd rather read off of the one that we've had some discussion on this about.

Okay Marc so, you know, the concern here is that you don't feel that this is an appropriate policy question - policy issue?

Marc: No again I think this is a market question. And I think policy decisions have many ramifications and they should be done only, you know, when necessary. And again I don't - I guess I don't see the necessity of enabling companies to do this for free.

I mean this is, again, this is - it's a market issue. It's a business decision. If you are a registrar and you decide to merge with another registrar or (buy) another registrar, then why should we make a policy decision to enable you to do that for free? There's a cost to doing that like there is in every other business decision. And like there are business and market solutions to solve this issue.

(Michael Collins): I don't think anyone has said - this is (Michael Collins). I don't think anyone has said that this would necessarily be required to be free. I think that we've talked about the registry having fees and possibly registrars also having fees.

Marc: No but I mean I don't see any reason why the registry - why the registrar should be able to take advantage of this policy - this process for free. Why should we even create this process?

If a registry wants to create that process and then charge for it, they can do that. But other than that right now if (a few) registrars want to merge, I mean, there's a way they can merge their portfolios.

I mean it may involve some cost or waiting until the domain names expire or some manual work. But I mean there are ways they can accomplish this. I don't think it's (indicative)...

((Crosstalk))

...of the whole problem that there's maybe not the most efficient way to do it.

(Michael Collins): I don't think there is. I don't think registrars can initiate a transfer even at expiration. I think registrants have to do that.

Marc: But again that would seem to me to be a registrar problem and not a community problem.

I mean there's ways that registrars can handle them. They can send notification to their registrants and say that once their current term expires they're not going to be servicing them anymore. And they have to transfer. I mean there's ways this can be accomplished.

Paul Diaz: (Michael) in following up on Marc's point just to play, you know, sort of the devil advocate role here. There clearly exists market solutions. You know, we already put it in our working draft for the initial (report). You know, registrars will assist registrants in sort of collecting and doing all the work for a traditional transfer.

And so if there is, you know, this merger/acquisition -- whatever is going on -- there are services that can help move whatever (base of names) want to get - need to be moved again under a traditional

transfer. So that it will be a year added or however many years and (you know the) corresponding registry fees for that.

What would the thinking be? Why would a - if we're (searching) around for partial bulk transfer terms of Scenario 3, why -- just help us think through -- why would a registrar want to do this in the, if you will, the free scenario; not change the date, avoid the fee, you know, if there's - there could be less than a year left on a name.

I'm just trying to understand are we creating a hypothetical here that might not really even come into play in the real world? And even if it comes up it's more likely going to be addressed by the existing market solutions. Question for anybody.

(Kevin Erdman): Well this is (Kevin). It seems to me that the main reason to have anything for Scenario 3 would be because of a registrar that for whatever reason had to go out of business; had to transfer its domains to another registrar.

But the, you know, let's say its solution was to buddy up with Registrar A which is only accredited in, you know, the domains of 80% of its holdings. So it needs to do a partial bulk transfer for Option A and then needs to find some other registrar in the other domain spaces for the other 20% of their portfolio.

You know, and if that's the case, you know, that sounds more like a, you know, a business scenario. That's their problem to figure it out and, you know, make appropriate provisions. The only way that it wouldn't be is if it was one of these things where the registrar is just going out of business and really ceased to function.

Marc: But if they were going out of business and ceased to function wouldn't the existing...

((Crosstalk))

Man: ...bulk transfer terms apply...

Man: ...transfer terms cover that?

Man: Yeah.

(Barbara Steele): I would think that they do.

Paul Diaz: Yeah I'm confident they would.

(Mikey): This is (Mikey). I think also even the scenario that you were describing would be covered because of the conversation we had right at the top of the call where we said that we thought...

Paul Diaz: We believe both applies to the names within a particular space.

(Mikey): ...within a (gTLD) yeah.

Paul Diaz: Yeah so...

Man: (Unintelligible).

Man: Please go ahead.

(Michael Collins): I'm sorry. I think if you really get right down to it some of these scenarios are more specific examples of Scenario 2. We really could probably eliminate everything except Scenario 2 and Scenario 4.

Man: (When it) - well, you know, (we're eliminating) scenarios - I mean Scenario 4 seems like...

((Crosstalk))

(Michael Collins): Scenario 3 is only a - is just a more specific example of Scenario 2. And Scenario 2 is general enough and wide enough that it can encompass three or five.

Man: Oh no I agree with you. I agree with you. I'm just saying that, you know, maybe then we should only look at Scenario 2. Because I think, you know, of all the scenarios, Scenario 4 is probably the one that is best served and is being served by the marketplace.

Man: Okay.

((Crosstalk))

Man: So maybe I (vote) that we just focus, you know, maybe solely on Scenario 2.

Paul Diaz: Yeah let's do that - just if nothing else go in order. So if we go back to two, two has been laid out. It's a, you know, again a transfer between registrars. You know, Registrar A decides to move a certain number of names to another registrar.



The question is that (Mike) has posed for us is, you know, for any reason. You know, we do have to consider should registrars be able to move a registrant's registrations at their own whim?

Man: Or can they? I don't think they even can under the current regime.

Paul Diaz: Well we did discuss in last week's call - I know like in our own case we have in our service agreement a notification period. I believe it's at least a 30 days notice. You know, so we notify the registrar if we were no longer going to offer a particular service.

And having looked at some of the other large registrars they have similar terms. The amount of time differs. But the - in the service agreement the registrars have that ability to - if they're no longer going to offer a particular service, to provide notice. And then, you know, at the end of that time period can take the action that they (unintelligible).

So...

Marc: But only if they're no longer going to kind of provide that service? Or is it for any reason?

Paul Diaz: In our case it's for a provision of service. But I think that would fit in with the scenario that we're discussing. You know, we said that they're no longer going to sell domain names in the (gTLD) in question; i.e. no long provide service for that TLD.

Man: You can imagine many other reasons as well.

Marc: But so under that existing scenario they could just choose whichever registrar they wish and then transfer those domain names to that registrar correct?

Paul Diaz: At least in our case after the notification...

((Crosstalk))

Marc: After the notification period and so then at that point the registrant would be charged whatever registration fee the new registrar...

((Crosstalk))

Paul Diaz: (Yeah) see and that's what I'm not...

((Crosstalk))

Marc: ...question here is how exactly would the - how exactly can one registrar transfer a domain to another registrar and accept the registration agreement on behalf of the registrant?

Paul Diaz: Okay.

Marc: Or I mean is there something in your agreement which basically says that you appoint us as your agent to accept the registration agreement with another registrar should we decide to not provide services in the TLD anymore?

Paul Diaz: That I would have to check. But at least within the scenario that, you know, as we've currently framed it -- Scenario 2 here -- we're saying

because there's agreement to no longer sell the names in the TLD in question.

And if that's the, you know, if the issue here or the question is (the no longer serving), aren't we back - I thought we had said earlier isn't this under the bulk - this would fall under the bulk transfer - existing bulk transfer rules?

Because that TLD space, you know, we've agreed all those names can be moved en masse from Registrar A to Registrar B because Registrar A is no longer going to be providing service in that space.

(Mike): This is (Mike).

Paul Diaz: Yeah (Mike).

(Mike): (Paul) I think you're right. The scenario you're describing where you're getting out of a (gTLD), I think, is covered by scenario - by the bulk transfer scenario. But I don't think that that is the same thing as what's being proposed in this Scenario 2.

(Michael Collins): Scenario 2 is using it just as an example of basically any reason. Suppose the registrar decided they didn't want to serve as the geographic area like China and they sold those customers to China registrar.

Marc: I mean I would say in that situation it's not appropriate for the bulk transfer process to be utilized. That's a problem for that registrar (which usually is a breach) of agreement with those customers. That's the registrar's problem.

(Michael Collins): It might not be a breach depending on who their contract is with...

((Crosstalk))

Marc: Yeah maybe it won't be.

((Crosstalk))

Marc: Maybe it won't be...

(Michael Collins): I don't know and I'm not saying it is or it isn't. I'm just saying I don't know.

Marc: Yeah exactly. Maybe it is and maybe it isn't. And that really depends on the contract. But that seems to be their problem - like their issue; not really the community's issue.

Paul Diaz: Now the question before the group, of course, is all right if the bulk transfer terms would not apply our fundamental charter question is should there be provisions for a partial bulk transfer? And if so does this working group believe that, you know, we should craft terms that would enable a partial bulk transfer and use that example; you know, the geographic region and moving it to a registrar in that region.

Marc: But I mean how often do these things really occur? I mean we're - I think like we're stretching here to think like these possible scenarios which are, you know, very, very rare. I mean I just don't even know if there's ever been a situation for any of these scenarios. If there has maybe there's been one.

But to make a huge policy decision and create new policy for a scenario that's never happened or that it's happened one time. And if it did happen it would happen incredibly rarely. That doesn't seem to me to be particularly wise especially when a policy change could have huge ramifications.

I mean it seems to me that these - like making a policy change and allowing a partial bulk transfer would be most helpful to the biggest registrars who have numerous registrars that are related entities and they'd be able to move names back and forth.

For any other situation I just don't know that there's really - I'm not seeing, personally, an incredible need which is not to say that there isn't one. But...

(Michael Collins): I wonder - I'm sorry (unintelligible).

Marc: I'm just saying I'm not seeing the need here, you know, really in any of these scenarios. And the few more concrete things as examples we can come up with, like I said I don't think they've ever happened and seem quite unlikely.

(Michael Collins): I wonder why (New Star) went through the trouble of doing (unintelligible).

(Barbara Steele): From what I understand, (New Star) has received, I think, a request from two registrars who were interested. And I don't believe that they've actually put in - actually put in place - or not in -- I shouldn't say put in place -- but they've actually used the services (yet).

(Michael Collins): (Thank you).

James Bladel: This is (James).

Paul Diaz: Yeah (James).

James Bladel: Unfortunately I'm going to have to drop off the call so...

Paul Diaz: Yeah I'm looking at the time too. Please go ahead though.

((Crosstalk))

...just to say...

James Bledeau: Yeah thank you.

Paul Diaz: All right very good Jim. Everyone we are almost at the top of the hour. So perhaps this is a good point just to put a pause on the discussion. Again the last three calls have been very, very substantive. And I appreciate everybody's time.

Question for the group though is that, you know, we are effectively pushing into the beginning of December now. And we've provided through our liaison an update to the Board, excuse me, to the Council on the status of our discussions.

You know, we've been having a lot of good debate back and forth. But I'm not sure we're really at a point yet where we can start putting some of these ideas down; committing these thoughts to the initial report.

There's, you know, certainly we want to take as much time as we need to do this, you know, thoroughly, properly; make sure everybody's views are heard. At the same time we do want to get our initial report together, posted so that we can start the comment period.

Obviously -- as we have in the past -- some parallels where we're waiting for those comments to come back in from the (lay) community and the constituencies we can continue our debate. And then, of course, it will be guided even further once those comments are received.

I guess the question for the group is, you know, with the calendar we're looking at our next call will be the 2nd of December. Do we think that we need - can we make a judgment at this point? Do we need more than another call or two to keep hashing this out? Do folks feel that we're coming anywhere near some general conclusions about when and where a partial bulk transfer terms may be applied? If so then, you know, we need to kind of thrash them out in a following call.

We'd just like to have a clear sense of where the group feels it stands right now because honestly I'm not getting a strong vibe. And I really would - my only concern is I don't want this to sort of become a - an unending debate session week after week raising great ideas, having good discussions but not necessarily seeing any light at the end of the tunnel.

So...

Marc: This is Marc. I can only speak for myself. But I mean at this point I feel that I've come to the conclusion that at this time there is no need for a partial bulk transfer and that the existing scenario of full transfer handles any likely scenario.

Paul Diaz: Okay.

Marc: And I don't know that there's necessarily agreement on that. But I personally would be willing to stick by that.

(Michael Collins): This is (Michael Collins).

Paul Diaz: Go ahead (Michael).

(Michael Collins): I think that maybe we should decide whether to agree with Marc or not. Because I think agreeing with Marc is the first step because it would certainly save a lot of time if we all agreed with Marc.

And then we wouldn't have - then just need to spend so much time deciding how to craft a policy. And then later maybe just - or (spend more weeks) - weeks more trying to decide how a policy would be worded and then end up possibly deciding that Marc was right.

Paul Diaz: Okay. Let's do this. Just so that it also makes it easier for staff because we'll see it in writing, I'm going to put that question to the list and would ask everybody to weigh in.

The question generally framed that, you know, there is, you know, belief among some that, you know, we don't need to continue further discussing partial bulk terms; that existing bulk transfer terms will apply



in most applicable situations otherwise let the existing market solutions deal with it. And that maybe in the response if you feel that we do need to continue discussing to highlight in your response what particular issues we want to really focus on.

That will probably help us so that we don't have quite such freewheeling discussion on the 2nd and spend the time moving forward and that we can begin to really focus on the text that we're going to use in our draft report.

Okay so with that I will get that out to everybody and encourage everybody, please, to weigh in; opportunity really for everyone to also underscore what else they want to focus on as we move towards getting that final draft ready.

I wish everybody -- certainly in the U.S. -- a very happy holiday weekend. And we will meet again this same time next Tuesday. And obviously any other questions, concerns, whatnot (use the) list. Reach out to Marika or I directly. And we'll talk to you all next Tuesday.

Man: Thanks (Paul).

(Paul): Thank you all once again. Bye-bye now.

Woman: Bye.

END