

**ICANN**  
**Transcription ICANN Copenhagen**  
**RPM & PPSAI IRT**

**Sunday, 12 March 2017 at 10:45 CET**

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James Bladel: Okay so let's get a thumb's up from the back of the room that we're ready to begin the next session and we are. Fantastic.

So welcome back to the GNSO Counsel Working Session and next up we have a review of another PDP which is reviewing the rights protection mechanisms in all GTLDs and the leaders of this group are Phil Corwin and Kathy who are here at the table. Is J. Scott here or is he remote?

((Crosstalk))

James Bladel: Okay. So you guys will be speaking on behalf of J. Scott and - okay. Let's get going and let's - would you mind if we have questions during the presentation? So...

Phil Corwin: No. That's fine.

James Bladel: ...as we go?

Kathy Kleiman: (Unintelligible) very appropriate.

James Bladel: Okay.

Phil Corwin: That's fine.

James Bladel: And let's try to make up a little bit of time and...

Phil Corwin: If you could tell us - my laptop's over here so if someone in the chat room raises their hand would you...

James Bladel: Yes.

Phil Corwin: ...let us know?

James Bladel: And if we could clear the queue from the last session...

Phil Corwin: This is the report on...

James Bladel: ...that would be great. Thank you.

Phil Corwin: ...the RPM revealing all rights protection mechanisms and all generic top-level domains in all galaxies and star systems and so far this working group is less controversial than the one I reported on a little while ago. That probably won't last.

But we've started our work - we got chartered a year ago, March 2016 so we've been on this journey - that's - the start of the journey we got up and running in June. We completed review of the trademark post-delegation dispute resolution process last November and really didn't see any need to

recommend significant changes in that and since then we've been engaged in a very thorough review of the trademark clearinghouse which is the database with high qualitative standards for trademarks that are accepted into that database.

And that database is the foundation for two related RPMs which is the ability to - for a rights holder to make a Sunrise registration in a new TLD and also to - if there's an attempt to register - if there is a completed attempt to register a domain that's an exact match to the registered mark it - one, during the registration process it generates a trademark claims notice to the registrant-to-be indicating that depending on their intended use their registration may raise infringement issues and they proceed at their own risk, and then if a domain is in fact registered the rights holder gets notice of that so they can check out the Web site and see if what's going on there is okay or if it's infringing and then they can take appropriate action.

We're going to be completing the - and see there's - we're about to start the review of the Sunrise and claims process and project completing that late spring, early summer and then getting into the new curative rights process created solely for new TLDs known as uniform rapid suspension.

URS: we hope to complete that work by October of this year and to issue an initial report and recommendations by the end of the year which would complete phase one of this working group's work and then we will initiate an early 2018, the first ever comprehensive review of the UDRP and we're not yet projecting a timeline for that but I think given the complexity and importance of the UDRP I would think that is going to take easily at least a year or more before we're ready to issue a report.

On that we've been able to keep pretty much to our timeline. We're slipping a little. We've also decided we're going to have - at least acquaint ourselves with the particulars of the additional RPMs sort of being offered both by the clearinghouse itself which is a continuation of the claims notice to registrants

that keep - stay in the clearinghouse past the initial 90-day period at a new TLD and some of the blocking lists offered by certain portfolio registry operators. And we're looking at that because they are interacting with the ICANN mandated RPMs for we've been told by a number of trademark owners that their - because of the availability of the blocking services. For example they're cutting back on Sunrise registrations and really relying on blocking and claims notices rather than Sunrise registrations in many cases.

So that's where we are in the timeline. Do you have anything to add on that Kathy? And this is my co-chair Kathy Kleiman. Our other co-chair is J. Scott Evans who I think many of you know noted trademark attorney's not with us here in Copenhagen but we have been rotating the chairing of the meetings among the three of us and we've had very good cooperation between all the co-chairs on the administration of this working group. Anything to add?

Kathy Kleiman: This is Kathy Kleiman. Pleasure to be here and appreciate your oversight of this process. I just wanted to add that we're having very active participation in this working group. Forty, 50, sometimes even 60 people come onto our weekly calls. A lot of - not everybody of course participates but many do. We have a very active chat room that goes on during - with robust discussion.

A lot of people doing independent research. We also have other resources in terms of research. The GAC asks for a review from uncertain issues from the analysis group. So we've actually had a deep dive into the trademark clearinghouse database by the analysis group up in Boston which is great because we can't see what's in the trademark clearinghouse database. That is a confidential database. So they've been able to go in and kind of do some analysis for us.

We've also put together tables and I'll just circulate them because we need a little show and tell. Tables where we're kind of looking at some of the trademark clearinghouse charter questions that come from you in our charter as well as being kind of redefined and clarified by the working group and

we're looking at the recommendations that came from the counsel and approved by the board. We're looking at what we into the applicant guidebook, we're looking at what Deloitte actually adopted as the trademark clearinghouse provider, the front-end provider and so - and comparing everything so we're taking our review work very seriously.

And we had our three-hour meeting yesterday, our face-to-face meeting with very active participation both by working group members and by the community. So this is - I think we can say this is a pretty robust process that's going on.

Phil Corwin: Yes and just to add that we've had great participation in the meetings as Kathy mentioned. Usually 50 to 60 and to those with the time we've been rotating once per month to a timeslot that's very late in the U.S. and frankly not very useful for European members but to accommodate our Asia Pacific members who have to join the other three meetings a month at strange hours.

We have over 150 members of this working group, close to 100 observers. People are still coming in and I expect we'll get more participation probably when we get to the UDRP. I think that just reflects the importance of this working group and the high interest in the subjects.

And while we've been keeping close to our timetable the co-chairs held a call a few days ago just before we came to Copenhagen and if we have to we've been having 60-minute meetings but we're looking at moving that to 90 or even two-hour meetings as we get to kind of more complex issues in order to stay on our timeline and kind of do everything we can to complete phase one by the end of this year.

So I think we're done with...

James Bladel: Okay thanks.

Phil Corwin: ...the timeline.

James Bladel: Thanks Phil Corwin and Kathy. We do have two questions.

Phil Corwin: Sure.

James Bladel: First up is (Paul).

Paul McGrady: Paul McGrady. Question on the timeline since we're on that screen: same question I asked Chuck earlier when he was reporting in on this PDP. Would an end date goal be helpful to you or would it be in the way?

Phil Corwin: We kind of have an end date goal, (Paul) so I'm not quite sure what the, I mean, our goal is to complete phase one and deliver an initial report and recommendation to count for public comment by the end of this year and then we'll kind of be two-tracking for a while where we'll be taking those comments into account and preparing a final report even as we initiate the UDRP work.

Paul McGrady: So okay apologies Phil Corwin if I'm misreading the screen but it seems to say commence phase two early 2018. Is there an end goal for phase two?

Phil Corwin: As I just said we haven't - we're going to have - the co-chairs are going to have to work with staff but we didn't want to - we haven't yet set a timeline for phase two. We'll be doing that late this year, early next year as we initiate phase two and we'll have a very comprehensive outline for what issues we're going to take in what order but there was so much work on phase one we just wanted to put that off until we got close to the beginning of phase two.

Paul McGrady: Sure so I expect phase two will be contentious and so I guess I want to ask my question again which is would it be helpful or would it be in the way if Counsel gave you guys an end date goal for phase two?

Kathy Kleiman: It would not be helpful right now - this is Kathy. In part because we haven't even thought about phase two. I think that's what Phil Corwin's trying to say is that we were told the priority was finishing phase one which is the milestone that's needed in order to go forward with new gTLDs. And so that's where we focus our energy so the whole idea of mapping out the UDRP review has not even been on the agenda. We've been working on PDDRP. Try saying that three times fast. We got really good at that one. The Post-Delegation Dispute Resolution Policy to trademark clearinghouse and then the URF. That's kind of what's within our valley of work right now. So we'd love to come back to you after we've mapped out the UDRP later and talk about end dates but I don't think we're in a position to do it now.

Phil Corwin: Yes and I'd agree. I don't think that this point in time it'd be helpful for the Counsel to set an end date for phase two. Late this year or early next year we'll be delivering for public view including for the Counsel a projected timeline for phase two for the UDRP - we're going to have to review all the charter questions just as we have for phase one. For each issue we have charter questions and some of them are duplicative so we've been consolidating questions, prioritizing questions and the list in the charter is not exclusive. Other issues can be brought up in the course of the working group.

So we - the co-chairs as I said we've been working very cooperatively together. We'll be sitting down late this year with staff and looking at all the charter questions relating to the URDP and saying all right what's the most logical order to take these in? Are there things missing here? How long do we expect each issue to take? And then we'll put out a projected timeline and then I think it'd be - feedback from the Counsel would be welcome at that point in time. But it would be premature now.

James Bladel: Thank you Kathy and Phil Corwin. Heather?

Heather Forrest: Thanks James Bladel very much. Heather Forrest. I am going to add my concerns to Phil Corwin's - or to Phil Corwin's. To (Paul)'s about the timeline. I don't have the original timeline in front of me and I'm not sure that this is the original timeline. I think we're pretty significantly behind and that worries me because I take the point we looked at the trademark PDDRP but as I recall - maybe my information is a little bit not as current like not today but I don't think we have any trademark PDDRP filings so we've reviewed a mechanism that hasn't yet been used.

It has taken us considerable time to come up with the TMCH charter questions but we're only just getting started and I have significant concerns about the timeline. That coming on the heels of Jeff's presentation just before (unintelligible) I'm - means, I mean, I'd love to hear what Subsequent Procedures has to say about this because their work hinges on the outcome of this PDP and to the extent that the two PDPs aren't talking to each other about timelines, I think we as a counsel need to be very, very concerned here in that what we're seeing here is two PDPs that aren't on the same track and yet they have overlapping scopes.

I am a bit concerned that we opened yesterday's session here in Copenhagen -- splendid that I remembered where we are today -- by essentially debating whether or not trademarks should be protected in the DNS. I don't think that maybe, I mean, some of the discussions that we're having - and Subsequent Procedures is the same way. We've had some really, really interesting sort of open-ended existential questions come up in both PDPs. I'm participating in both and they're fascinating but I think we need as a counsel, as manager of the (unintelligible) to decide how we want to deal with some of these open-ended existential questions so that they don't tie up our work.

My last concern is that the update that we had this morning from Phil Corwin in relation to curative rights PDP, initial report suggests in essence something that modifies in a way the UDRP and that of course is phase two of this

particular PDP. So I don't know how we pull all of these loose ends together but I put them - I put a marker down for Counsel because I think we need to be very careful about this and not simply let it happen. Thank you.

Phil Corwin: So you raised quite a number of points there Heather. Let me work back. On the curative rights process we're not modifying the UDRP in any way other than establishing an alternative basis for standing for IGOs to make it easier for those IGOs that haven't registered trademarks to bring a case but to base that on a separate process which gives them protection in national trademark law systems, and we're taking comment on that but we're not changing the UDRP policy in any way, shape or form with those recommendations.

So far as sticking to our timeline our timeline - we are less than a month behind the timeline we've set at the beginning and we're dealing with very complex issues where - in many cases where we found that data was not available and we had to make significant inquiry to get data on which to base decisions. So - and again the chairs are very aware of the need to complete this work this year and that's why we're going to probably move to 90- or 120-minute meetings going forward to get that done, but this is a very important working group and I think that's attested to by the very high membership and participation.

They're complex issues and you're always trying to - in this type of working group to balance speed with thoroughness because let's be realistic: there's not - this is going to be - there won't be another review of the new TLD RPMs maybe ever and certainly not for many years and that's the one that relates to such with procedure. Our future work on UDRP is in no way tied to the work of the subsequent procedures working group and in no way would cause any delay in the launch of the second round. It's really a separate inquiry and that one's - as (Paul) noted is highly complex. There may be some contentious issues and - but we'll deal with that when we get to it.

But we really haven't falling significantly behind our original timeline. It's less than a month and we're going to devote more time to make sure we stay on the timeline. But I think - I don't know how we do a review faster on the remaining issues that wouldn't take till about the end of this year to complete the job and does my co-chair have anything to add?

Kathy Kleiman: Yes. Kathy Kleiman. But I did take to heart Heather, that we should be more closely coordinating with the Subsequent Procedures working group. We had some calls early on of co-chair coordination and then calls got canceled for various reasons so we should really resume that. We tried to schedule them and they were canceled for scheduling reasons so - and that is something very important. Hopefully Mary Wong will help us create those and put those back in so we can coordinate quickly. Thank you.

((Crosstalk))

James Bladel: And that was my only takeaway from this exchange as well Kathy, is that we had Jeff here, Avri is here, you know, that you take the opportunity here in Copenhagen to establish a regular sync up between those two groups.

Kathy Kleiman: Anybody.

Phil Corwin: Yes well we've been closely monitoring their work. I've been on many of their calls and I do want to say really we have not been dealing with existential philosophical questions. We're - this working group has been very narrowly focused on whether the new TLD RPMs are being effective, are effective, are accomplishing their goal and are working in a balanced way. There hasn't been anyone - I can't recall a conversation where anyone has said, you know, should we even have RPMs? Should there be trademark protections? And our expectation is that we're not going to change the core of any of these RPMs and any recommendations we make are going to be around the margins.

So I don't know how you got the impression that we're spending time on existential questions because we're really - this is a very pragmatic working group focused on effectiveness and balance and not on reopening the basic question of should there be RPMs.

Kathy Kleiman: And if I might add - this is Kathy. From the Counsel we received a charter with many, many questions and so we've narrowed down - for the trademark clearinghouse for example we've narrowed it down to 16 questions which consolidate and hopefully clarify and streamline the questions we got from Counsel but we got a wide array of questions and so we're really trying to wrestle with them and address them.

And again great thanks to the, you know, dozens and dozens of people who participate in the working group meetings on a regular basis. These are hard debates but we're moving forward and I thought we had a good meeting yesterday. Thank you.

James Bladel: Heather, is that a new question?

Heather Forrest: Oh no I'm sorry.

James Bladel: Oh okay. So okay let's - your...

Phil Corwin: Let me just...

James Bladel: ...(unintelligible) slide?

((Crosstalk))

Phil Corwin: ...look at the slide see if we have anything.

James Bladel: Okay.

Phil Corwin: We've covered a lot of this. I think we've covered just about everything. I did want to add that in order to expedite things we've been all along the way establishing subgroups to kind of do advanced scouting on issues and frame questions so that a lot of the preparatory work is done before we even get to the next topic. So next slide because we've pretty much covered this.

Yes as I noted we've identified data gathering needs and we have done outreach to various ICANN parties to get data when we think it's available and useful to the work of our working group. Review a need for additional face to - yes I guess we might have a facilitated face-to-face. We decided it would not be useful for this meeting but it might be useful in either Johannesburg or Abu Dhabi to - for the working group to get together. Maybe - I don't want to project which one but Abu Dhabi would be near the time we hope to be completing our work and that might be a good place for a day-long face-to-face in addition to the regular ICANN schedule to kind of wrap up phase one and I don't think anything more on this slide.  
(Unintelligible).

And we did have a very useful three-hour working session yesterday. We had high attendance. We've got a community session to update the community on our work on Wednesday from 9:00 to 10:30 and that's the links to all the background and again I would just add and emphasize what Kathy said is that the working group is being very diligent. We have a charter and in the charter there are - the Counsel has asked us to address and resolve dozens and dozens of questions related to the new TLD RPMs.

Now we're not spending time on every question but we have to at least go through those a list for each topic and combine some of them where they're repetitive, decide that others really are very important to our task but that's part of the reason that it takes quite a bit of time because if we didn't at least look at each of those questions and think about them for a little bit or we wouldn't be doing our job under the charter, so.

Stop there. I see Anne has a question.

James Bladel: Go ahead Anne.

Anne Aikman-Scalese: Yes thank you. Anne Aikman-Scalese with Lewis Roca Rothgerber Christie and I know - so we had an exchange yesterday about the analysis group report and I'm not going to go into all of that but I just want to make two quick points in relation to first of all what was brought up about Sunrise period and trademark holders not really using the Sunrise period in the way that folks had anticipated for establishing defensive registrations.

You mentioned that the ongoing claims notices were functioning well in relation to that but I think it also needs to be understood that a very, very significant factor with respect to defense of Sunrise registrations are the prices associated with those registrations.

And I do understand that, you know, pricing is really not a matter that is in any way under ICANN's control but for many, you know, trademark holders those premium pricing issues during Sunrise were the issues that put them off from Sunrise registration and in some cases they just took the risk that as soon as Sunrise expired they'd be able to acquire that at defensive registration. It's far less expensive. I mean, we're talking about, you know, 25, \$30,000 domain name registrations. It'd be an odd correlation between trademarks and premium names.

So second point is trademark clearinghouse from my standpoint, for my clients is working extremely well when matched with (unintelligible) information to avoid initiating any type of legal action against, I mean, we've had plenty of registrants proceed -- in connection with one or two trademarks in particular -- proceed with the registration. We get the notice, we take a look at it and I say no action.

And I'd like to suggest to you that the availability of that information in terms of these, you know, how does RDS interact with trademark clearinghouse, but in fact it avoids a lot of trouble for registrants to have this information available. Otherwise, you know, as lawyers we have to say well you don't know what's going on here, you know, you've got to go find this person. You've got to file this, you've got to file that because that's the only recommendation you can make from a legal standpoint if you don't have the information. If you have the information you can say hey this really doesn't look like a problem to me. Let's, you know, let it go away. Thank you.

Phil Corwin: Yes thank you Anne, and let me respond in a couple of ways and let Kathy add whatever thoughts she has. The first hour of our working sessions yesterday was an interchange with two individuals, two executives from Deloitte which is operating the clearinghouse and we have not heard any complaints from anyone about the actual operation of the clearinghouse. People - trademark owners seem very pleased with their operation.

The only outstanding issues we really have to deal with are one, whether there should be more than one provider. Do some people think that if it was more than one provider that the competition would lower the price of clearinghouse registrations, not which is different than the premium name price. And the other is whether the trademarks registered in the clearinghouse should remain - whether that's to remain confidential or should be more open to at least some public inquiry and we had a very good robust discussion on that yesterday with strong and fact-based views on both sides of the issue and we're going to have to deal with that shortly in the working group and make a recommendation one way or the other.

One the pricing of premium names that's really outside the perv. Even though that's related to the decision of whether or not take advantage of the Sunrise registration period at the particular TLD that's outside the province of our working group and really more in the province of the subsequent procedures, and I'd be surprised if they reopened ICANN's initial decision not

to have any kind of price controls on new TLDs, but that's their issue, not ours.

I will say from my - just from anecdotal information I've received from trademark owners both within ICANN and through my activities at the Internet committee, the International Trademark Association that I think there would've been more - the pricing is an issue but even beyond pricing if there had been just 100 new TLDs and I think there might have been a lot more defensive registrations but I think when trademark owners start some more than 1000 going into the root they just said other than a few very special TLDs that we're particular worried about, we're going to rely on claims notices and curative rights and blocking mechanisms rather than trying to do defensive registrations across hundreds of new TLDs.

Anything to add Kathy on any of that?

Kathy Kleiman: Kathy Kleiman. I just wanted to add it's good to hear it's working. That's one of the pieces of input that we've been looking for. Thank you.

James Bladel: Jeff.

Jeff Newman: Thanks. Obviously this microphone is meant for taller people. This is Jeff Newman. Yes this is one of the areas why it's important for us to coordinate because I'm not sure I necessarily agree with Phil Corwin that this aspect is solely within Subsequent Procedures. It may be one of those overlap areas because I think there's been a complaint that some of the registries have obtained copies of the clearinghouse data and then have intentionally priced those names on the - or in the clearinghouse at a higher price so there are certain TLDs there where that's been alleged.

So I think that's a case where there's overlap and we may have to come back to the Counsel for the Counsel to kind of make a call. Well actually I'm sure

we probably could agree amongst ourselves who would handle it but there are certain overlaps with that. Thanks.

Phil Corwin: Yes. Well Jeff, why don't you and I and Kathy and Avri get together during this and we can discuss that pricing issue a little more. I will say if our group is asked to look at pricing of premium names that's going to add to our timeline because that's going to be a contentious issue.

James Bladel: Okay. Thank you Phil Corwin and Kathy. Our queue is clear. We certainly appreciate the update and I think to Heather's point we will follow up with you as far as how we can help you coordinate with the sub-pro PDP.

Phil Corwin: We welcome your input.

James Bladel: Okay. And I was supposed to pass this down. I don't know if you've had a chance to review that. I skimmed it.

((Crosstalk))

James Bladel: Okay. We'll pause the recording then and take a few seconds here. Allow the staff folks to give us the thumbs up for the next session.

Is that a thumbs up? There we go. Okay thank you. All right the next session is an update on the implementation review team for privacy and proxy services accreditation and for that we will receive an update from Darcy Southwell. Darcy? Take it away.

Darcy Southwell: Thanks James Bladel. Darcy Southwell for the record. So I think most of the Counsel was here when this was approved by the Counsel - the PDP was approved by the Counsel in I think January of 2016. It is a program to create an accreditation program similar to the registrar accreditation program for privacy and proxy service providers. Obviously this would affect registrants, privacy/proxy providers, registrars and other third parties and also affects and

similar to what we talked about earlier with other PDPS and interaction with the RDS.

You know, the goal of the program is to create consistency around privacy proxy services so law enforcement, other third parties well as the registrants understand sort of how it all operates. Next slide.

So we convened in October of 2016. We meet weekly usually. Next slide please.

We've had about 10 meetings so far. We're actually a pretty active group. There are quite a few registrars involved which to our knowledge makes up the bulk of current privacy/proxy providers today. We've gone over a lot of the original questions that ICANN staff had from the PDP. We've talked about who is labeling which at this point we feel there are no changes that should be made to the actual content of the Whois. We've talked a little bit about data retention and escrow.

One of the challenges that we have is that you have privacy/proxy providers that could be affiliated with a registrar and of course accredited registrars operate under the RAA today in a certain fashion. But you could also have new companies coming in becoming privacy/proxy providers that are unaffiliated with a registrar and so how do we handle things like data retention and escrow when they're not registrars which we haven't resolved that issue yet. Next slide.

So part of our timeline is driven by the fact that the RAA has a temporary Whois - or privacy/proxy specifications. We did an extension to January of 2018. As a result we're trying to get the draft policy and draft accreditation contract ready by September of this year for public comment and hopefully not be - if that's the case then hopefully be able to announce a policy and program around the same time as the expiration. Next slide. Stop me if you have questions.

James Bladel: Sorry can I go back one...

Darcy Southwell: Mm-hm.

James Bladel: ...for the previous - for a question? So when this policy is adopted - the actual language of the contract is adopted there's still a process whereby accredited or would be accreditation services have to apply and ICANN has to evaluate those applications and then, you know, execute the agreement with them and I imagine that's going to take some time as opposed to a new consensus policy which becomes effective on a certain date and that's it. This is going to take a little bit more time to spool up.

Is there any talk on the IRT about any kind of a preapplication or something that - because a lot of these are already accredited parties in that they're accredited registrars and so they're not exactly unknown to ICANN. Is there any way that we can expedite that contracting process and shorten that window between the time that the contract is adopted and the policy becomes in effect if we can close that by fast tracking those folks who already have contracts with ICANN?

Darcy Southwell: Thanks James Bladel. This is Darcy. We've talked about at a high level we're very aware that that needs to be a part of this process. We haven't talked about it in detail yet. So it's coming and it'll definitely be a part of that initial report.

James Bladel: Okay. Michele Neylon?

Michele Neylon: Thanks. Michele Neylon for the record. Just following up on that: what's the carrot? What's the carrot to go to the trouble of getting accredited early when I could just wait?

James Bladel: Well the carrot is that I'm assuming you are - you have a privacy service now.

Michele Neylon: And?

James Bladel: And that you would want to continue to have a privacy service.

Michele Neylon: Yes I know but the thing is - what I'm trying to understand is okay in terms of nice, neat, tying things up in a bow from an ICANN perspective accelerating that makes sense. But in practical terms if ICANN doesn't put the policies and the processes in place in order for us to get accredited they can't terminate an accreditation that doesn't exist. They can't deny us the ability to upgrade Whois privacy/proxy services if they're incapable of actually accrediting us.

James Bladel: So I'm just looking at...

Michele Neylon: I'm just trying to understand why would I do it...

James Bladel: Understand.

Michele Neylon: ...earlier.

James Bladel: I'm trying to note that there's a gap and there's two ways to address the gap. One is you can close it by fast tracking folks who already have a contract and then the other option is to offer some sort of a grace period where existing providers can continue to operate until this process is stood up. One of those two things have to happen. You can't leave the gap. That's all.

Darcy Southwell: Thanks James Bladel and I - it is something, I mean, we're all aware of and we'll address. I just don't know what direction yet we'll go. Next slide please.

So as you can see we're hoping to have our public comment, our initial report and - I shouldn't call it initial report. Sorry. The policy paper and the draft contract ready in August for publication in September.

Just looking at the deadlines so to speak to the May deadline there's currently - we actually had our working group meeting yesterday and there are two subgroups being formed. One is the public safety working group who's working on it as a subgroup to address recommendations regarding law enforcement requests for relay as well as disclosure. They were not - they're not ready to discuss yesterday any of the details. They are looking at basically four areas defining what law enforcement authority is and looking at the issue of jurisdiction. Looking at what are acceptable disclosure requirements, notification to registrants and then sort of a processing and prioritization.

We're hoping to have their initial draft. We encouraged them to give us the initial draft rather than waiting till they had a final draft. So we're hoping to have that in a couple of weeks but right now we just don't have any details. James Bladel.

James Bladel: Michele Neylon has his hand up (unintelligible)...

Darcy Southwell: Okay.

James Bladel: ...old hand?

Michele Neylon: Oh I'm no.

James Bladel: Okay. So a question about the public safety working group and their efforts on this and please bear in mind that we are dealing with the fallout from the small group GAC effort that came up with the small group proposal and how to integrate that back into the process. So have they been coordinating closely with the PD - the - sorry. The IRT with this proposal? And to some of those questions, I mean, if you said jurisdiction for example, those sound like they might be stepping beyond implementation. Is there any kind of a sanity check on...?

Darcy Southwell: This is Darcy. So this was the first - we - they've been meeting private and so this is the first the IRT has seen any of the information. So this was late yesterday and my first reaction personally was that there is some overstepping here and actually some of it's probably leading to policy development some of which is already defined in the PDP. For example we talk about jurisdiction, we talk about what a law enforcement authority is. As a result we really encouraged them yesterday to share the draft as soon as possible so that we could start having that discussion.

James Bladel: Donna?

Donna Austin: Thanks James Bladel. Donna Austin so I have some concerns about the PSWGs world and the way that they work and that's reflected from some interactions that the - well there's a specification - a framework for security, Spec 11-3B. It's an effort that's been ongoing for about three years now and the manner in which the PSWGs participated in that has been challenging at some times.

So I think one of the things to keep in mind for the IRT I think is if - at what point do you need to come back to the Counsel to seek some guidance or assistance in, you know, moving forward with this because, you know, we don't want it to unnecessarily get delayed while you're trying to sort out internal wranglings with parts of the group so - I see Mary Wong's got her hand up. But just something to keep in mind if it goes down that path.

Mary Wong: Thanks Donna, thanks James Bladel. So not speaking on behalf of the IRT but as a staff member that's observing the work of the IRT that's lead by my colleague (Amy) who's actually in the audience so she'll obviously correct me if I get anything wrong. But I just wanted to put some of the factual context before the Counsel.

One is that the PSWG has at least one member who is an active member of the IRT. She's nodding so I got that one right. And of course with respect to the framework that they're working on as Darcy said I guess it depends on what it is but in that regard the one thing to note is that with the new consensus policy implementation framework - I got that one right too, right? That GDD and the staff has worked on, they are very clear guidelines for IRTs and within this particular IRT I think we've had some discussions as to what that means, so I think it's fair to say that there is an awareness of the need to bring some things back to Counsel if for example they relate to policy development issues.

And lastly with respect to the PSWG participation again the GAC advise that proceeded the board's adoption of this recommendation did say and the board accepted that advice that while the GAC had still some concerns about the privacy proxy accreditation program that those could be addressed if feasible implementation and the PSWG and the GAC did commit to participating in the IRT.

James Bladel: Thanks Mary Wong. Donna, is that...

Donna Austin: Yes (unintelligible)...

Man: Respond? Oh okay. Darcy?

Darcy Southwell: Thanks this is Darcy again. So I understand we'll have the first draft of the policy document for the IRT to review later this month, probably shortly after this meeting so then once we move on from there we'll work on reviewing the draft contract as well incorporating the Public Safety working group's framework.

Another sub-team is also made up of registrars. We haven't started meeting yet and we are working on the framework to - or will be working on the framework to deal with how registrars are supposed to handle registrations

when they become aware that an unaffiliated - oh I'm sorry. Unaccredited privacy proxy service is being used. That is something that's not allowed under the RAA once this goes into effect so we need to build a framework on how to handle that. Next slide.

James Bladel: Sorry. Mary Wong, is that a new hand? Okay.

Darcy Southwell: This is sort of - this is just the same timeline. Does anyone have any questions?

James Bladel: I see an actual hand. Not a logical, digital hand from Stephanie.

Stephanie Perrin: Thanks very much. Stephanie Perrin. I just wanted to register that the problem that we have experienced with respect to the granting of privacy/proxy services to other than individuals when we'll probably see again as we start talking about the application of privacy protection in the RDS PDP and it may not be one that the data commissioners whose remind is strictly to the protection of privacy under data protection law can help us with.

In other words if they say yes sure we don't care about commerce groups competitive interests in the registration of domain names that then leaves the PDP to sort out - it doesn't solve problems because there are still many aspects of domain registrations that are entitled to confidentiality under other - human rights for instance and other legislation and other public interests. And so I think how we handle this will be very important for the next leg whenever that happens. I'm saying eternity but, you know, possibly within five years. Thanks.

James Bladel: Thanks Stephanie. Michele Neylon?

Michele Neylon: Thanks. Michele Neylon for the record. Stephanie, I don't know where this is coming from because I lived through the PPSAI PDP and we descent - we

did not try to restrict who would access to privacy or proxy. So I'm not sure what - where you're going with this.

Stephanie Perrin: What I'm trying to say is we may have said that. The GAC did not agree. The GAC is now coming with some kind of compromise proposal. If we think it trends on policy we have an issue. We will experience a similar issue when we come with the preliminary report for the RDS PDP. It is certainly the case that when it comes to data protection law in principle it doesn't apply to corporations unless they're legal entities, unless we're talking about (unintelligible)...

Michele Neylon: Yes okay.

Stephanie Perrin: ...it gets extremely complex but it may be that particularly I'm thinking about Monday we may get a rather cavalier answer to a question from the data commissioners saying yes our remit is individuals. I'm just saying if the GAC takes that position and pushes it for the larger RDS PDP we will have a rerun only it would be infinitely more complex than this one. Thanks. And if you don't get it yet Michele Neylon, then I'll drop it and bring it up later.

James Bladel: Well maybe it benefits from a side conversation. I think first off we need to see what the Public Safety working group comes back with in the next couple of week and we should also remind ourselves and if necessary remind them of the scope of an IRT and I think the GAC advice said if feasible to address these issues in an implementation and if it's not an implementation issue then I think that...

((Crosstalk))

James Bladel: ...that's something that we need to flag and discuss with the GAC is whether or not that's feasible. Go ahead Michele Neylon.

Michele Neylon: And thanks James Bladel. Look just exactly what you said: this is why I was a bit confused because my understanding was that okay the GAC may not like what we came up with in the PDP but they can't get what they didn't get in the PDP in their IRT. That was - that's why I was confused by Stephanie's comment.

James Bladel: In theory that's how it should work.

Michele Neylon: No, no in reality that's how it works James Bladel.

((Crosstalk))

Michele Neylon: We have to hold the line on this.

James Bladel: All right. I agree. Hold that thought for this evening. Okay. No other questions in the queue and it looks like you're towards the end of your presentation, your slides. So any other questions for Darcy on the implementation review? I know that the - I was a participant on PPSAI and I know that the review is also - or the implementation review team is also heavy lifting so thank you for your work on that and your leadership.

And I would also note just that the Sunrise/Sunset date of the temporary specification that keeps being extended was really kind of an incentive to get us started on the policy work, not necessarily be a constraint on when it could end so I don't think you're going to see a whole lot of hair pulling for registrars about it if it needs to be extended again, but let's hope it's not necessary.

Okay with that we will pause the recording and get ready for our next session. And thanks for helping us catch up. We're only nine minutes behind now. That's fantastic.

Next is we have a discussion of motions for our meeting on Wednesday. We have one formal motion and I think we also have one item for our consent agenda. Is that correct? Do we want to do that one first or do we want to...

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