

**GNSO**  
**Post-Expiration Domain Name Recovery (PEDNR) drafting team**  
**25 May 2010 at 18:30 UTC**

Note: The following is the output of transcribing from an audio recording of the Post Expiration Domain Name Recovery (PEDNR) drafting team teleconference on 25 May 2010 at 18:30 UTC. . Although the transcription is largely accurate, in some cases it is incomplete or inaccurate due to inaudible passages or transcription errors. It is posted as an aid to understanding the proceedings at the meeting, but should not be treated as an authoritative record. The audio is also available at:  
<http://audio.icann.org/gnso/gnso-pednr-20100525.mp3>

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

Present:

Alan Greenberg – ALAC – Chair  
Jeff Eckhaus RC  
Cheryl Langdon-Orr - ALAC Chair  
Ron Wickersham – NCUC  
Shiva Muthusamy – At-Large  
Tatyana Khramtsova - RC  
Michele Neylon - RC  
Berry Cobb – CBUC  
James Bladel – RC  
Paul Diaz – RC  
Mike O'Connor – CBUC  
Helen Laverty - RySG

Staff:

Margie Milam  
Marika Konings  
Gisella Gruber-White

Absent apologies:

Karim Attoumani – GAC  
Ted Suzuki – IPC  
Matt Serlin – RC

Coordinator:       Excuse me. I'd like to remind all parties this conference is being recorded. If you have any objections you may disconnect at this time. You may begin.

Gisella Gruber-White: Yes, thank you. Good morning, good afternoon and good evening to everyone on today's PEDNR Call on Tuesday, the 25 of May. We have Alan Greenberg, Michele Neylon, Tatyana Khramtsova, Siva Muthuswamy, Cheryl

Langdon-Or, Ron Wickersham, Paul Diaz, Berry Cobb, Jeff Eckhaus, Mike O'Connor and James Bladel.

From staff we have Glen de Saint Gery, Marika Konings, Margie Milam, myself, Gisella Gruber-White and Ted Suzuki will be joining us later on. If I could just remind everyone to please state their names when speaking for transcript purposes. Thank you. Over to you Alan.

Alan Greenberg: Thank you Gisella. Three things I think we want to do today. I don't think we actually got around to setting up an agenda. A quick update from Marika on the survey.

I'd like to discuss what we plan to do in Brussels and who is going to be doing it and when are we doing it. And lastly start looking at the report to the extent we have any comments and I know I have a few. Maybe other people do as well. If there are no other items we want to add to the agenda or we want to defer adding them until later. If first of all Marika, if we could have a quick update on the survey.

Marika Konings: Yes. This is Marika. So to date 12 people have filled in the survey. I'll just quickly go through the names. So people can shout out if they think they filled it in but I might have missed it.

So it's Mikey, Alan, Barry, Cheryl, Alan, Ron, Michele, Glen McKnight, Paul, Matt, Jeff Eckhaus and Mason have completed the survey. I'd just like to encourage everyone to complete the survey. You do have to go to the end of the survey until it says thank you for your participation in order for your results to get registered. So you will need to take it in one go. So that's where the survey stands.

Alan Greenberg: All right. And if I remember correctly the report has to be out by the 30?

Marika Konings: It has to be out by the 31 of May so Monday it should be posted on Monday.

Alan Greenberg: First of June perhaps?

Marika Konings: No, 31 of May is the...

Alan Greenberg: 31 of May. Sorry. I thought you said - I heard first of May.

Marika Konings: No. 31 of May coming up, the coming Monday. I'm still trying to figure out because I understand it's a public holiday in the US. So I'm just trying to make sure as well that someone will be in New York to actually post the document if I get it to them either over the weekend or on Monday.

Alan Greenberg: Okay, which means we really have a cut off assuming we want to incorporate the results by some time early that weekend, so essentially the end of this week is the cut off.

I don't think I want to cut off people completing the survey but the cut off for getting into the interim document will be that. So to the extent anyone can get their surveys done before then so much the better. And I have one question on the survey. Marika, is it possible to put it up on the screen or any of the more recent versions?

Marika Konings: You mean the questions?

Alan Greenberg: The questions, yes. The PDF we were using to discuss it.

Marika Konings: Okay. Just give me two seconds. I'll just find the last version. 18 of May is the last one I have here.

Alan Greenberg: That's fine. And if people can scroll down I'll give you a page in a second. We're looking under contractual obligations or contractual terms. It is Question number 14.

Now the wording we ended up with in Option A is modify the EDP so that the cost for recovery after expiration is available to the registrant at the time of registration or previous renewal. Now I remember there was some explicit discussion of are we implying here that the registrar is guaranteeing the price a year or in years ahead of time?

And the intent certainly was no, that is not the case. But at the time of renewal of registration they are showed the then current post expiration cost. That's not the way the question ended up reading. Certainly when I read it it could easily be and one could infer from that that we're saying is the registrant at the time they renew or register given what the price will be one or more years later?

Does anyone have an objection for when we publish? It's too late to change it for the survey right now I think certainly for the people who have already answered. But is there any objection to changing the wording in the document we publish so that we make it quite clear that we're not asking a registrar to guarantee a price several years ahead of time but simply that the then current price is displayed?

Anyone have a problem with that? It certainly wasn't intended to have it read that way but when I filled out the survey that's the way it read to me. Not hearing anything, not seeing any hands, Marika will make a change. If you can change the survey on the fly for any future people doing it, that's so much the better.

But I'm more worried about the document reading properly. And of course if anyone answered the question differently because of that interpretation let us know and we'll try to fix it retroactively. Okay. Can we - Marika, is it possible for you to put up a notepad so we can talk about the agenda for the meeting in Brussels?

Marika Konings: Yes, sure. And if you want I can actually upgrade your status so you can actually type in whatever you want.

Alan Greenberg: Okay. The first question I have though is do we know when the meeting is?

Marika Konings: I've put in a request for the meeting to be on Thursday morning from 9:30 to 11:00. But I'm still waiting on confirmation and especially as well to see if there is nothing scheduled in conflict with that that would take away precious space.

I'm sure it will be something opposite it but just trying to determine if there are no major...

Alan Greenberg: Cheryl, didn't we have an ALECT meeting then?

Cheryl Langdon-Or: That's only until 9:30. I checked that with Mikey.

Alan Greenberg: Okay. Thank you. I don't do times very well.

Marika Konings: So as soon as I get a confirmation from the meeting team I'll of course post the bulletin. But that's the tentative time for now. And just a note that the public forum is going to be Thursday afternoon in case anyone wonders if that will be a conflict.

Alan Greenberg: Does that mean the board members?

Cheryl Langdon-Or: We've got a couple of hands up Alan.

Alan Greenberg: Sorry. Ron. Thank you very much Cheryl.

Ron Wickersham: Yes, this is Ron. May I request that the change of the word in the survey, that that change be posted on the mailing list because you're saying without reading it it's impossible to know whether I would have changed my answer?

Alan Greenberg: Certainly. No doubt.

Ron Wickersham: Thanks.

Alan Greenberg: Okay. Paul.

Paul Diaz: Hi Alan. Thanks. Okay. So we're talking about Thursday the 24th from 9:30 to 11:00? Is that the plan?

Marika Konings: That's correct.

Paul Diaz: Okay Marika. That conflicts with the RISG has already booked 10:00 to noon. I know that's not an ICANN body per se but a bunch of us are participants in that group and meeting face to face is sort of like a command performance. We have got to show up.

So I know I'll have a problem. I'll only be able to join for a half hour in other words if we do it at that time slot. I think at least James has the same problem and maybe Mason as well.

Marika Konings: This is Marika. I mean the challenge is that there are very few other slots available for workshops. I can have a look at the schedule.

But the problem is if I switch it with something else I'm sure everyone will have the same challenge if I would put the IRCP meeting for example in this slot. So that wouldn't really solve anything. I think the only options we have are either Wednesday afternoon or Thursday morning for these kinds of meetings.

Paul Diaz: Understood and I just want to do it more as a heads up for you guys.

Marika Konings: Okay.

Paul Diaz: I would certainly say don't try to do it any earlier because for folks that are not in Brussels dialing in, that becomes insanely impossible to try to dial in for.

Alan Greenberg: If you do it a lot earlier it's just late at night.

Cheryl Langdon-Or: Yes. I was going to say.

James Bladel: This is James speaking.

Alan Greenberg: Go ahead.

James Bladel: And Paul, just to make things a little more complicated, last week there was a posted notice that the RESG meeting time may be changing to noon until 2:00.

And that was due to a forum on VNS abuse that it was conflicting with. So I guess the answer is it will either conflict with the RESG or it will conflict with the VNS abuse forum.

Marika Konings: This is Marika. I think that Margie is on the call as well but I think that the abuse of VNS forum is scheduled now for 11:00 to 1:30. Margie, can you confirm what is the latest on that? But at least the post expiration meeting is not supposed to conflict with that one because we looked at that one (before filling in) the schedule.

Paul Diaz: Okay.

Margie Milam: Yes. Let me look it up. I have to pull it up.

Paul Diaz: Too many moving targets.

Margie Milam: Yes. What I have it's 11:00 to 12:30 on one of the latest drafts I have. But this is all done in draft. And yes, absolutely we have all moving targets.

Alan Greenberg: It's something like a game of musical chairs. Unfortunately when the music finally stops we're going to end up with something pretty well frozen that we have little control over. Sorry. Are we finished or is someone looking something up? I've lost track.

Margie Milam: I'll look.

Alan Greenberg: Okay.

Margie Milam: Yes.

Alan Greenberg: Okay. Let's start. We can go back to that. Let's start looking at the agenda. Not necessarily in order of doing it, clearly one of the things we want to do is talk about the survey end results.

What else do we want? What other structural parts of the thing do we want?  
Cheryl, did I hear you?

Cheryl Langdon-Or: No you didn't. Sorry.

Alan Greenberg: Sounded like you were taking a breath ready to talk.

Cheryl Langdon-Or: I was shifting in my chair. I wasn't about to speak.

Alan Greenberg: Okay. What else do we need? I'm working blind here. Marika, is there any other standard boilerplate that I should have put on that I didn't?

Marika Konings: This is Marika. I think I found like an overview of the report and maybe some of the discussions the working group had as a primary course as well as a kick off for the public comment forum that will follow the Brussels meeting. So



it's a way as well to inform the community on what the group has already considered and discussed.

So maybe people can point out what we already have looked at and basically tried to focus on those questions where the working group is so far apart or feel that more discussion or input might be required in order to come to agreement or (pretense) at the end of the day.

Alan Greenberg: Okay. Any other items that come to mind otherwise Marika and I will work on this offline and put something together and present it?

Marika Konings: This is Marika again. I'm happy to put together some draft slides once we get a template for it.

Alan Greenberg: Yes. All right. And we'll also need if you can put together a short presentation for use of the GNSO and this time we have committed to presenting it ahead of time. Tim and I have to decide if he's doing it or I'm doing it or it's a dog and pony show, we'll both do it. But I'll deal with it. I'll talk to Tim first and decide what he wants or hear what he wants.

Marika Konings: And this is Marika. I mean just general information as well that update to the consulate is scheduled for - let me just double check - 3:30 to 4:30. We'll need both updates from the IRCP Part B working group and the post expiration working group to the council. So those that are interested are of course welcome to join on Saturday.

Alan Greenberg: Anything else on this? All right. Let's put that aside for the moment and go on to the report itself. Marika, did you have any plan on how to do this? Do you want to sort of bring up each section by section and see if people have comments?

I must admit my edit is half way down and I haven't sent it in yet so I'm going to mention a few of the things as we go along but the bulk of it I'll simply be sending out to you and to the list hopefully later today or early tomorrow.

Marika Konings: Yes. This is Marika. That's fine. I can just go through the document. If we first go to Page 3 there is a glossary. You'll see there some additions in purple that were made by Ron.

And I don't know if anyone has any comments on the additions that were made. I already made changes to this based on feedback from Jeff Eckhaus on the definition of RGP, which actually took from the ICANN glossary and turned out to be quite outdated.

Alan Greenberg: I have two. One is on the first one, on the auto renew grace period. About a little over halfway through it there is a phrase in parentheses and therefore not entitled. I'm not quite sure what it's trying to say. I think at the very least there is a too missing at the end, which just makes it parse in English but I'm not quite sure what's not entitled. The only thing I can make sense out of it was that they're saying that the person isn't entitled to the use of it but they're certainly still entitled to renew it. We have several hands. Jeff.

Jeffrey Eckhaus: Yes Alan. Could you or just not send it to everyone when you just specify something could you just refer to the page or the section because I'm kind of trying to follow and I guess maybe you did say it. If you did I apologize, what section that's in with the parentheses.

Alan Greenberg: The very first paragraph of the glossary Page 3 I believe.

Jeffrey Eckhaus: Page 3. Okay. And just going forward...

Alan Greenberg: I have the page numbers on mine too but we're talking about the glossary at this point.

Jeffrey Eckhaus: Okay. I was going to say just my thought is for uniformity just to use the page numbers that are on the Adobe maybe if people agree to that just some uniformity so that people can follow and hopefully that will work.

Alan Greenberg: We can try. I'm using a marked up copy, which has different pages.

Jeffrey Eckhaus: Okay.

Marika Konings: And this is Marika. Would it be helpful if I can quickly while you discuss where to do that to add line numbers and pull that up in Adobe Connect? Would that help, Alan?

Alan Greenberg: It won't help me but it may help everyone else. Ron, you had your hand up?

Ron Wickersham: Yes. This is Ron. Yes. Since I drafted those purple lines, what I intended there was to make sure that we were explaining that yes, you're right about saying entitled to the renewal. Entitled is - that could be an explosive one.

Alan Greenberg: I don't think that was part of your edit. That was there before.

Ron Wickersham: No, I think it is actually my...

Marika Konings: I think the problem is Ron provided it.

Alan Greenberg: It was? Okay. My...

Marika Konings: The purple there are edits from Ron.

Alan Greenberg: Again, I'm looking at a different version. My apologies. Go ahead Ron.

Ron Wickersham: Yes. So the intention was to say that even though you can read - they're not entitled to the renewal that's shown to the year ahead expiration date because it's not paid for.

Alan Greenberg: Yes. I mean they're not entitled to the use of it. They are still entitled to renew it though.

Ron Wickersham: Yes.

Alan Greenberg: And that's why I thought it got confusing.

Ron Wickersham: Okay. I'll work on that again because I can see the confusion. Yes. I want to make sure that we bring up the point though that even though it's gone a year ahead that that's the primary reason for confusion.

Alan Greenberg: We may be better off putting it in a sentence on its own to say it explicitly.

Ron Wickersham: Right. Okay.

Alan Greenberg: Okay. My next question if no one else has one on those is on the definition of RAE a little bit lower on the page. And it says the Whois information may be different if someone acting on behalf of the registered name holder has renewed the registration or the registration has been taken over by a third party.

I'm not familiar with the concept of someone else doing it on behalf of the registrant and therefore the Whois changes. Is that some common practice that I'm not familiar with?

Jeffrey Eckhaus: Alan, it's Jeff Eckhaus.

Alan Greenberg: Yes. Go ahead. Just jump in.

Jeffrey Eckhaus: The screen disappeared. I don't know what just happened but I was thinking could that be that it's reviewed that since - could trying to explain that the

registrar auto renews, could that be saying it? Is that what it's supposed to mean being on behalf?

Because the only thing I could think about is no, that's the only way I could think about it.

Alan Greenberg: Then it would be renewed in their name and it wouldn't change.

Jeffrey Eckhaus: Right. So yes, no that's the only thing I could think of. I personally don't know of a practice that would be on behalf. Maybe I'm totally missing it but I don't know of anything that sounds like that.

Alan Greenberg: It certainly shouldn't be the lead one in this case. I mean in general it changes because if it's changed. But it's still available for the registrant to renew it. It's changed because the registration agreement has allowed the registrar to do that.

So I think that needs some clarification. Again, I'll be sending this in and I'll make a suggestion. And my last comment on the glossary is on the RGP and we're - let's see now that we have this up I'll see if I can see it somewhere around Line 70-something.

I can't quite read the words. It says its implementation is different in different GTLDs. I'm not quite sure what that means. As far as I know the implementation is basically the same. The technical details may be different but I wouldn't think from the registrant's point of view it's significantly different. Am I missing some salient part there? Marika, you said you rewrote that.

Marika Konings: This is Marika. I actually took that from a recent advisory on I think it was related to the posting of the (FEMA RGP). So I took that section from a document that was developed by compliance and ICANN legal.

Alan Greenberg: I mean it may be different in that it's not in how it's treated in the root zone or how it's flagged maybe in different registries. But conceptually I don't think it's different unless some registrar knows the difference.

Again, I'm trying to keep things simple and that leading off that sentence before it even says what happens sounds like we should be giving two different flavors and we're not. Okay. I have no other points on the glossary if we want to go ahead.

Marika Konings: This is Marika and again so on Page 5 the executive summary starts there in the first section I've just taken some parts on the background of the working group and the charter questions.

1.3 is the issue background just to highlight that part of these are provided in Section 3.2. And in 1.3 I just provide a summary of the deliberations of the working group, basically how the group works and providing the references to where more information can be found on the deliberations as well as the registrar survey and as well as the information that was provided by the compliance team.

So Section 1.4 would be then the potential options for consideration and would then include the results of the survey basically. So it's just as here now an introduction and this will need to be completed with the outcomes of the survey that would outline the different options that are under consideration and the support they have received on the basis of the survey.

Alan Greenberg: Okay. So that's where you plan to plug that in.

Marika Konings: Yes. It wouldn't be like everything. I mean this is the executive summary so I think it wouldn't be the whole chapter.

Alan Greenberg: Okay. Certainly. Of course. I don't think what you have in the last bullet is something we can really use because we're going to barely have the results of the survey with some numbers.

We're certainly not going to be in a position to draft what our options are going to be because of it. I would suggest something like factoring in the outcomes of the survey the working group will formulate instead of recommendations for consideration by the GNSO.

You don't have to take the words down, I'll send them to you. But I think that sounds something closer to what we actually plan to do. We plan to continue deliberations based on all of the survey results or factoring in the survey results and come up with final recommendations. Not hearing any negatives. All right. Let's go on to Section 2.

Marika Konings: Section 2 is just the standard boilerplate on the stage and the process. Section 3 is the background, process background and then the issue background, which basically is a summary of what was outlined in the issues report.

Alan Greenberg: Okay. Part way through there you have the details of the charter again. Do we really need to put them there? I guess the first place they were in was the executive summary is that correct?

Marika Konings: Right. Yes.

Alan Greenberg: Okay. So they do need to be here. In the version I have the numbering is wrong. I don't know if that's in your section.

Marika Konings: Yes. Here too. They're going to change because I probably used numbers somewhere before on this so I'll change that. Ron has his hand up.

Alan Greenberg: Yes. Ron, go ahead.

Ron Wickersham: Yes. This is a comment to the Section 2. At one point in time when we were revising the questionnaire we were suggesting that the questionnaire itself would be extended beyond our group and that has been dropped as I understand it now or it just seems to have disappeared, that consideration?

Alan Greenberg: No. I thought that somewhere in this report I thought we were actively encouraging that.

Ron Wickersham: We're encouraging it but without having - I mean are we going to present a survey and announce it to the public or just kind of only to the public who happen to read our initial report? That isn't very good advertising.

Alan Greenberg: No. I think we have to do it wider than that. Section 1.4 of the executive summary says we are going to do it.

Ron Wickersham: Okay. Thanks.

Alan Greenberg: But your point is well taken. We actually need to actually do that and not only say we're going to do it.

Marika Konings: This is Marika. Just a few clarifications - we're basically just asking for input on the different questions. We're not saying that we're running the survey again.

Alan Greenberg: How do we ask for input - go ahead.

Marika Konings: Because I mean I don't know how you want to run the survey like we're doing for the working group for the larger public and to make sure that people who are filling it in are saying who they are and verifying who is actually providing information.



I mean I think that brings some complications with it if you just let them fill in the survey as we're running now for the working group.

Alan Greenberg: Is that any different from people identifying who they are and making comments in the public comment period?

Marika Konings: Well, they need to at least provide an email. I mean still of course people can claim that they're someone else but then in the survey I mean the same person could fill in the same survey 100 times just giving different names and (not verify that). I mean you'd need to be very enthusiastic of course to do it.

Alan Greenberg: We're having a hard enough time getting people to do it once. But point taken. Okay. It's something we need to talk about and probably lock in before the end of this meeting. Cheryl.

Cheryl Langdon-Or: Just to let you know there are tools including the (B Plus) tool, which avoids all of that with surveys. So unless someone actually sets up whole new IP addresses and everything else for them to do it, it does minimize that risk. But I do think it's a bit like having a tax problem. We should be so lucky.

Alan Greenberg: Anyone else? I mean my inclination is to open it up and to the extent we can identify people we can. If we can't identify them or they don't provide enough identification, we don't factor in their responses. Any strong feelings on that? Paul.

Paul Diaz: Yes. Thanks Alan. I'm just curious okay, when you say open up again for input or basically having people fill in their own survey?

Alan Greenberg: I guess my feeling is we went to a lot of trouble to try to craft this survey so it's understandable and preamble each one with what the issue is. And I thought the intent was we were going to actually open up the survey in addition to having a formal comment period on the report itself.

Paul Diaz: Yes. I just would need to think of that. I don't think a working group certainly in the years I've been involved at ICANN has ever done something like that. There's nothing wrong with that. You'd just be blazing new territory.

I also wonder how do we distinguish between the folks who have been regular participants in this working group and have kind of worked through and made sure we understood everything versus somebody who comes in, they're passionate about one issue, fills out the survey.

And to Marika's point, you could have people kind of doing (that for their campaign) and to skew results in a certain direction.

Alan Greenberg: Well, I guess I hadn't really considered that heavily. I'm interested in what else other people have to say but I think it's one of the inputs we can use. If people come in and we don't know who they are at all then you weight it differently.

Cheryl Langdon-Or: Weight it differently.

Alan Greenberg: I mean if for those who are familiar with the name, if Jeff Williams fills out five surveys then we know what to do with it.

Jeffrey Eckhaus: Thank you.

Alan Greenberg: Thank you. I mean I can add more than a couple names to that short list.

Paul Diaz: Yes indeed. Got you. Okay. It's just an interesting concept and ICANN's ongoing efforts to broaden participation in its processes - maybe there is something to be said. I just wonder logistically also I mean Marika, are you prepared to have whatever software you use that runs this and then tabulating if potentially you could get maybe dozens of extra responses and then analyze it and say hey, the rest of the people were very different from the working group or whatever?

Alan Greenberg: I mean I know you asked Marika but I'll say one, I've proposed wording for the next steps. That's why I said factoring in as opposed to based on.

Paul Diaz: Yes. Okay.

Alan Greenberg: Paul, is your hand up from before? Do people feel comfortable doing basically the survey perhaps modified a little bit to make it understandable if we feel it's not?

Cheryl Langdon-Or: Cheryl here. I think we have made it very understandable. And with the preamble it's in good condition in my very biased view to be more widely explored.

Alan Greenberg: We may be agreeing with each other. Don't want to do this routinely.

Cheryl Langdon-Or: Hell no.

Alan Greenberg: Okay. Let's go ahead. If anyone has any afterthoughts we can come back to it.

Marika Konings: We're moving on then to Chapter 4, approach taken by the working group - just a brief overview of the working method. And we'll have information on the working group members and we'll fill in as well following this meeting the number of meetings attended with a link to the attendance sheets that we'll post on the wiki.

Alan Greenberg: Marika, can we go back for a moment? I'm in the auto renew grace period of Section 3.2. I don't quite know where that is in your line numbers.

Marika Konings: Page 11 - 215.

Alan Greenberg: Okay. Where you have in the end of the second bullet it said two registration agreements did not contain such a provision, that is a provision to change Whois or to transfer the domain to someone else I believe.

Do we know for sure that those two registrars did not do that or simply the registration agreement didn't say it?

Marika Konings: This is Marika. If I recall well because this was at the time of the issues report. This was just based on looking at the registration agreement and not asking them as part of the survey that we did later.

Alan Greenberg: Right. Okay. I see what you're saying. Okay. I see.

Marika Konings: Yes. This is just when I did the issues report I did some just quick research on the basis of that and it was just taken from that.

Alan Greenberg: Okay. I misunderstood. Let's go ahead then. Quick question again in this section - we seem to be using the term registrars with a capital R and without a capital R interchangeably. Is this just an editing issue or is there - do we use them in different context? An example is the...

Marika Konings: Yes I see. I think it's an editing issue and a question would be do you prefer capital or small? Or is that a question for the registrars?

Alan Greenberg: Okay.

Man: How about capital (for everybody)?

Alan Greenberg: I see no Xs from anyone.

Ron Wickersham: Yes. This is Ron. May I ask?

Alan Greenberg: Yes. Go ahead Ron.

Ron Wickersham: Yes. Should we at some point in the preliminary introduction say something about registrars includes resellers because we occasionally bring that up in our discussions that I think we're considering them synonymous throughout the whole report.

Alan Greenberg: Do the registrars want to say anything? Yes James?

Jeffrey Eckhaus: I think that we're considering them synonymous because contractually their fates are tied. I don't know if there is an issue that would warrant separating or making a separate distinction but for the purposes of just looking at the REA for example, the new one that was signed last year in 2009, they are considered affiliated.

Alan Greenberg: Yes. I would tend to agree with Ron that we want a preamble mentioning resellers. The exact words we may need to refine but I think we need to make it clear that (this as) presented by resellers are included in what we're talking about.

I mean when we're talking about the Web site must do something or other, we're assuming I think from our discussions we have been assuming that if a registrar is obliged to do something then the reseller is similarly obliged to do it. Jeff?

Jeffrey Eckhaus: Yes. I just want to be careful about that and echo what James is saying. Is that remember that the resellers do not have a contract with ICANN and do not have to go through this.

What they have to do is there are pieces in the new, as James said, in the new REA that obliges registrars to make sure their resellers follow certain rules laid out in the REA. We can say that we are requiring resellers to do this because there is no contract to them.

You'd have to say that the registrars and then by that extension. So a preamble to say resellers really it would have to be a change to the REA or it would have to be a major change because that would in effect say I'm telling resellers to make registrars do it and say this would also apply to a reseller. But that would be a change in the REA would be needed.

Alan Greenberg: Well, what compliance has always said and prior to this REA we have been told many times that the obligations that a registrar signs on to are implicitly passed on to the resellers.

Although this REA has highlighted some very specific points. Are you saying that is not the case?

Jeffrey Eckhaus: What I'm saying is not everything - I'm not sure. That should like a clarification on that is saying there are specific things highlighted. Are the ones that are not that they have to do, do resellers have to do that, registrars do not?

Alan Greenberg: Yes. I mean my understanding was anything that is applicable to a reseller if there is an REA rule about it for the registrar then it is also applicable to the reseller.

I mean the rules about how you use EPP don't apply to resellers so it clearly does not fall upon them.

Jeffrey Eckhaus: Right. So I guess my point is why if you believe that and which I'm not disagreeing with you on that at all, is then why do you need to call out resellers in that piece then?

Alan Greenberg: Because the man in the street may not understand that. The other people reading this document may not understand that.

Man: Well, could we include something in the glossary to that effect and that could be...

Cheryl Langdon-Or: Or in the preamble.

Alan Greenberg: I have no problem with that. It's going to come back to haunt us when and if we start looking at actual policy. To what extent do we need to add clauses in the REA that enhance the kind of thing that Jeff was just talking about?

Or do we, can we assume it is implied? And that's an issue I think legal counsel and compliance will have to help us with. And I don't really want to start tackling it today. But I don't see how it's unreasonable anywhere if it's in the glossary or in a preamble to say that we're referring to it.

As a matter of fact, the request for the issues report explicitly said when we're talking about registrars we are talking about resellers. That got lost in the issues report but it was there at the very beginning. So what's the way to go, glossary or somewhere in the introduction?

Jeffrey Eckhaus: Alan, this is Jeff. I would say to punt and to not ask the compliance or if you want to ask legal to see what's the proper method on doing that and maybe hold a place for it but I would say to be determined by staff or something along those lines.

Alan Greenberg: I think at the very least since this is an interim report we need to identify it as an open question if we don't have the answer in time. And given the number of days between now and the 31, I suspect we will not have the answer in time. Marika, do you feel comfortable trying to get an answer or do we try to put a placeholder in?

Marika Konings: I'm actually looking to Margie, more the legal expert.

Alan Greenberg: Okay.

Marika Konings: Margie?

Margie Milam: Yes. I just don't know if we're going to get an answer. This is Margie. I'm not sure we're going to get an answer from legal. In looking at the current REA and this is just a quick look at it, it talks about certain obligations related to the third party resellers.

And it's specific to things like if a registrar has an agreement the agreement must include the following provisions. And then it talks about what's in the provisions. So it's not crystal clear from at least my reading and this is a quick read that everything a registrar has to do is automatically transferred through to a reseller. I mean there are like I said specific provisions related to resellers. So I would be a little cautious in replacing, assuming anyways that everything that applies to a registrar applies to the reseller.

Alan Greenberg: Yes. I mean I think we're - it's not everything certainly. But it's the things that relate to dealing with the registrant. If there are some things that don't apply I think we need to know because that's an indication that we may need to write policy on it.

Jeffrey Eckhaus: Alan, it's Jeff. Sorry. That was my point of I don't want to make these assumptions. I'd rather get a definition. I understand the timeline but I don't want us to make a wrong decision based upon the time and rush something that's incorrect.

Alan Greenberg: I support that 100%. So let's go down the list and then I'll make a suggestion if it still applies. (Helen).

(Helen): Basically I'm not quite sure what the previous conversation is. The resellers are not contractually bound but the registrar is. So in all cases the registrar is responsible for the reseller. So if they cannot get success with the reseller they can contact their registrar.



Alan Greenberg: I think the question is yes, what you say is absolutely correct but what are they responsible for?

(Helen): The registrar is responsible for the reseller to follow every contractual field that we have with ICANN. We have to. If the reseller fails to do something that's part of the ICANN contraction then the registrar is responsible for making sure it happens.

But you cannot say that a reseller has more leeway than a registrar because it isn't. The reseller is just a third party.

Alan Greenberg: If we can get ICANN legal and compliance to say what you just said I'd be in heaven.

(Helen): They have actually said it on a number of occasions.

Alan Greenberg: Margie's comment implies she's not sure. When there was no reference to the resellers in the REA what you're basically saying is what people said. Now that there are some references but not all, I've heard the disclaimer saying only those things that are specifically referred to in the REA are obligations of resellers. The others aren't and that's where the fuzziness comes in.

(Helen): That's again up to the registrar. If the registrar wants to interpret it that way then you have to go after the registrar. You can't really do much with the reseller. The registrar (contracts with them).

Alan Greenberg: No. I know we can't do anything with the resellers. It's the registrar. We're not disagreeing at all with each other.

(Helen): So while you're involved with the registrar you can link it in the glossary and say the resellers are controlled by the registrars and that's it. You don't need any more.

Alan Greenberg: Okay. Michele, you may be on mute.

Michele Neylon: No. I was just picking the phone up off the desk.

Alan Greenberg: Okay.

Michele Neylon: I think in some ways I think part of the problem is that - okay, how do I word this? You might need to expand the glossary because part of the problem is that as far as the end user is concerned they have a domain name registered with somebody.

They may not be aware of the difference between a reseller or a registrar or whatever term you wish to use.

Alan Greenberg: Right.

Michele Neylon: So in order to avoid certain degrees of confusion it would be helpful from my perspective at least and this is just my own personal view on this, that in the glossary at the beginning of this that it's clearly stated what is meant by a registrar.

And while I know this is going to prove impossible because it hasn't happened to date, some attempt at defining what a reseller is. Because until you actually put that in then you're going to come back time and time again to this kind of argument about what resellers are meant to and what registrars are meant to do.

I mean I agree with (Helen) in that the registrar is bound by contract to ICANN. There is mention yes of resellers in the REA but ultimately the

reseller doesn't have any contractual agreement of any kind with ICANN. So if the reseller or anybody else who does anything with the domain that is on our accreditation, does something, ultimately it's going to end up on my desk anyway.

Alan Greenberg: Okay. I think we're all agreeing with each other. It's just a matter of finding the words. By the way, I think the current REA actually defines reseller. I don't remember what words it uses.

Let me phrase it the way I did when we were starting this discussion whatever, two years ago. If we were living in a world where the registrar could relieve themselves of any obligations in the REA by simply subcontracting the work to a reseller, that would be a marvelous world we live in.

There would be a lot more subcontracting going on in the world everywhere. So I think the standard legal precept saying you can't remove your responsibility by simply because you are effectively subcontracting to someone. And I think that's what (Helen) is saying and I think that's what you're saying and Jeff.

We just need to make sure that the legal interpretation of the REA matches that.

(Helen): I think it's self-evident. You just need to as Michele says, put it in the glossary in case anybody does have problems understanding this.

Alan Greenberg: All right. I think I agree with you. I think we will put it in the glossary and in parallel with that but not for the deadline we have of the 31. We will also try to get some words from legal.

Michele Neylon: We could simply put that a registrar is somebody who is party to the registrar accreditation agreement. That would shut me up. But the only reference to

resellers in the REA 2009 version is Section 3.12 through to with the subsection 3.12.1 through 3.12.6.

I mean if you look at it it's actually quite narrow in what it's doing. But even though it's narrow it's actually very broad. And I mean the basic idea is as the registrar we're responsible for any and all actions, lack of actions or whatever. It's still true.

Alan Greenberg: Without going back, I don't have the REA in front of me. My recollection is it highlighted some of the obligations. And there are those who have said because it didn't highlight the others it's not an obligation they have.

And can you hold on a second please? Sorry. My grandson has just arrived. It's going to be noisy. Okay. We'll put something in the glossary for this go around and in parallel we'll try to get some level of certainty so we're all using the same words in the same ways in the future. But I think everyone on this call is saying the same thing. Marika, let's go ahead.

Marika Konings: So back then to - this is Marika again - so back to Section 4, approach of the working group. I said we'd just provide an overview of the working members and we'll add the number of meetings attended with a link to an attendance sheet as well as to the statement of interest.

Then Section 5 is a summary of the registrar survey that you have already seen before. And as well I will include a link to the complete results of the survey, the Excel sheet that we'll post on the wiki.

Alan Greenberg: Just going back for a second on to the - sorry. I'm delaying in scrolling. On to the members of the working group, does anyone have any problem adding another column of number of surveys completed?

Paul Diaz: Alan, this is Paul.

Alan Greenberg: Yes. Go ahead.

Paul Diaz: Yes. I have no problem with that and I would just say for this first draft what we can post here, we will have that first column, meetings attended, and the new one, surveys completed, filled in, right?

Alan Greenberg: Yes we will.

Paul Diaz: Okay.

Alan Greenberg: And it will point to a Web site, to a wiki site or Web site giving the applicable meeting details.

Paul Diaz: Right. I think that's really important especially given the earlier discussion about potentially opening up the survey. It's very important that for the report and the conclusions that are reached herein, it's very clearly understood who weighed in, who participated.

Alan Greenberg: I agree. And I think in line with what other groups have done recently we should probably order them by stakeholder group or constituency or whatever is applicable just so people can at a glance see what the participation has been.

I think the communications task force or working group that Mason ran had a pretty good form in the summary of to show who participated and at what level. So we can probably use that as a model.

Marika Konings: This is Marika. I might need to look at that report and take over that model.

Alan Greenberg: Yes. They gave all the detailed one in the report, which we won't do. But the same general format.

Marika Konings: Yes. And indeed there's a reason why I'm needing to (tell what's not filled in here yet). Basically I'm waiting for this meeting to finish and then I'll have the latest figures in there instead of having to go back and forth and adding every meeting.

And the reason for not including the complete attendance sheet is that that's an Excel sheet and it doesn't look very pretty when you import it into a Word document. So thought it might be nicer to have the link so that people that really want to see which meeting was attended by whom, they can go there. But I think hopefully this will provide a good insight into who were the active contributors to the work group.

Alan Greenberg: Yes. There will be sufficient numbers that are zero or close to zero that will give an indication. Okay. Back to where you were. I'm sorry for going backwards.

Marika Konings: Okay. So Section 5, the summary of the registrar survey. It will also provide a link to an Excel spreadsheet and it's very difficult to import that in a good way into a Word document.

But this provides basically the summary on different questions. And Chapter 6 is the information ICANN compliance staff shall provide an overview of different information that's provided on complaints received and the audits they conducted.

Alan Greenberg: Okay. On that Marika, I sent you a note but I'll ask in general. At one point I did an analysis of that trying to identify which items related to renewal and came up with a number that was I don't remember - 1500 or something like that.

And I can't find that spreadsheet. Did I send it? Does anyone remember if I sent it to an email? Anyone remember seeing that or did I imagine doing it late one night?

Marika Konings: This is Marika. I don't recall but how long ago was that?

Alan Greenberg: Well, it would have been after we got the data from compliance and before now. I guess late in the year.

Marika Konings: I'm happy to check back in my files to see if I find it.

Alan Greenberg: I couldn't find a spreadsheet, which I'm sure I used and I couldn't readily find an email but there were so many that I didn't look at all of them. If anyone recalls it or remembers when or what it said, I think it was a pretty rigorous analysis and I don't think it over inflated things.

But it gives a bigger number than just looking at the huge list of numbers we have here. We'll see if we can find it in any case or redo it. Go ahead, Marika.

Marika Konings: So then moving on to Page 28, deliberation of the working group. This really just provides an overview of the discussions we have had and the notes I've taken on these different issues.

Things that are even out (to be decided) as well so if there are any further additions. The only thing I've added is in 7.4 on Page 30 as we didn't have any specific notes on that one, I just refer there to the survey where we have discussed in that context this issue in further detail.

Alan Greenberg: I think the issue, the discussion we just had on registrars and resellers may actually warrant a short paragraph somewhere in here in that if the assumptions we're making are not valid then we need to go back and rethink it.

And if they are valid then it needs to be said. Perhaps in the introduction because I don't think it fits under a specific charter question.

Marika Konings: This is Marika. I think we did - I'm trying to look back now because I think we did agree somewhere.

Alan Greenberg: Okay. Great word.

Marika Konings: Yes. But I'm not sure where. Will you provide some language Alan?

Alan Greenberg: I will make a note on that. That is for Section 7, intro. Yes.

Marika Konings: So then Section 8 will provide an overview of the survey and the potential options for consideration. So written there already in the introduction and as well I've highlighted there the position I have made compared to the document that everyone has been reviewing basically just highlighting here that this is an area where community input is requested.

So basically here I have just copied and pasted the different items and basically I just need to fill in the responses once the survey is completed. And I see here as well that my numbering has gone off a bit on the headings so I'll try to get that in order.

Alan Greenberg: Just a comment, too, I think it was James who said if we do a survey we're striking out on new ground. Not quite. The board public participation committee has just done that. So we're just following the leader at this point.

Marika Konings: So moving on to almost getting towards the end. Chapter 9 is then overview of the stakeholder group and constituency statement and the initial public comment period we ran.

It's just an overview and a summary of the comments that were received. And Chapter 10 is then just prior to concluding some next steps that will need to be completed following the public comment period and the initial reports. And Annex A would be on Page 48, the charter and on Page 51, the constituency



statement template that was sent to all the constituencies for input. And that's it.

Alan Greenberg: Okay. I will be completing my pass on this, which I think will have a lot of small stuff and maybe a few substantive ones I haven't discussed. I had only gotten halfway through the paper before the meeting today.

And I'll send that out to the whole group so and I have already done except changes from the previous changes so you should be able to readily see what my comments and suggested changes are. If anyone has any objection to those I guess speak up quickly and we'll see what we can do.

Is anyone else planning anywhere near a complete pass of this report at this point just so Marika can try to schedule her timing properly? Seeing no one, if they come they will be a surprise for you.

Marika Konings: This is Marika. So my idea would be if you get your edits out later today if anyone has any comments on that if they can share that on Wednesday. I know that we have very short deadlines with the 31 of May coming up.

And then people still have time to complete the survey tomorrow and then my objective is to fill in those gaps on Thursday, get it out to the group so people can have a final review until Sunday night and then I can push it out Monday morning if that works.

Alan Greenberg: And of course you're not doing anything for any other working group so you have plenty of time.

Marika Konings: I'm really happy with the deadline. I have four other reports that are due on the same deadline. So I'm very grateful to the public participation period.

Alan Greenberg: All right. If there are any other comments at this point otherwise I think we're going to make it a short meeting today and let everyone get back to real work or reviewing PEDNR reports. Anything else?

Then Marika and I will try to do a bit of work over the next week and we'll see you next Tuesday.

Thank you all. Bye-bye.

((Crosstalk))

END