

**Inter-Registrar Transfer Policy Part B PDP  
Transcription**

**Tuesday 19 April 2011 at 14:00 UTC**

Note: The following is the output of transcribing from an audio recording of the Inter-Registrar Transfer Policy Part B PDP call on Tuesday 19 April 2011 at 1400 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-irtp-b-20110419-en.mp3>

<http://gnso.icann.org/calendar#apr>

**Participants on the Call:**

James Bladel – Registrar SG

Berry Cobb – CBUC

Paul Diaz – Registrar SG

Kevin Erdman - IPC

Rob Golding - RrSG

Bob Mountain – Registrar SG

Michele Neylon – RrSG Chair

Mike O'Connor - CBUC

Barbara Steele – Registries SG

ICANN Staff:

Marika Konings

Kristina Nordstrom

**Apologies:**

Simonetta Batteiger – Registrar SG

Chris Chaplow - CBUS

Anil George - IPC

Oliver Hope – Registrar SG

Baudoin Schombe – At-Large

Coordinator: The call is recorded. Please go ahead.

Kristina Nordstrom: Thank you very much. Hello everyone and welcome to the IRTP call today on the 19th April. My name is Kristina Nordstrom. And I will be filling in for Gisella for this and for a few IRTP calls ahead.

And please feel free to correct me if I severely mispronounce any of your names.

On the call we have Mike O'Connor, Kevin Erdman, James Bladel, Michele Neylon, Barbara Steele, Barry Cobb, Paul Diaz, Bob Martin and from staff Marika Konings and Christina Nordstrom.

And the apologies I have are from Anil George, Oliver Hope, Simonetta Batteiger and Baudouin Schombe.

And may I also remind you to please state your names before speaking for transcript purposes. Thank you very much and over to the chair.

Michele Neylon: Thank you. As per usual does anybody have any update to the statement of interest, conflicts of interest or is it safe to assume you're all still as much capitalist or socialist as you were the last time we all spoke?

Mikey, have you become a socialist?

Mikey O'Connor: I'm a pirate.

Michele Neylon: Okay thank you. That's all I wanted to know. Okay. All the pirates are on the call. Perfect.

Now Mikey and James, you sent along an updated version of the emergency action channel which of course has become EAC since this is ICANN and we can't possibly introduce something without making it into an acronym.

Are there any - would you like to walk us through some of that Mikey?

Mikey O'Connor: I'd be happy to. What I did is went through the transcript of the call then tried to capture all the conversations we had been sent a draft to James. And he caught a couple of things that I goofed up. So James can chime in anywhere I go off the rails.

One of the important structural changes is that this is really a change to two parts of the IRTP.

The big long chunk is an insert into the Section 4 of the IRTP. And by the way we might want to just renumber the IRTP. The numbering in the policy as it stands right now is kind of erratic.

But anyways so the big chunk is in Section 4. But then there's one change to Section 6 which is where the undo language lives. And so I added that change at the bottom of this. So there's a structural connection between these two parts pointing back and forth to each other.

The first thing that we did we had a pretty long conversation about what is the goal of the EAC? And so that first paragraph that expanded to flush that out a bit.

The - there's a piece that I wrote that we finally decided to take out that we need to figure out what to do with. And that has to do with Simonetta's point about what are your other choices, go to court, et cetera, et cetera.

And James and I decided that that probably didn't belong in policy but probably involved some sort of educational material or Web site or something.

So there's a piece that we haven't done yet. And we need to do something about. James, go ahead and just interrupt me when I go off the rails like that.

James Bladel: Okay. Well I just wanted to build on that Mikey. There was a second paragraph there that listed the menu of options of ways that transferred issues could be resolved.

And I think we were trying to achieve two things by removing it. One, we didn't want to be too prescriptive in policy that laid out the sequence or a recipe for what must be followed in a transfer dispute.

And secondly we wanted to emphasize that this is a, not the dispute resolution process or a guideline for a dispute resolution process but this is simply a communication channel, an emergency communication channel.

And so anything that subsequently came after that communication was established we wanted to perhaps put (unintelligible).

Mike O'Connor: Yes, like he said.

Any - I think I'll stop at this point and take questions on sort of the goal statement. I think that's the way to do this just in case because otherwise it'll get all collided at the end. But does this...

Michele Neylon: Mikey this is Michele.

Mikey O'Connor: Yes go ahead Michele.

Michele Neylon: Just in the draft that's on screen there it still refers to 24 hours. But I believe that both yourself and James had agreed in principle to changing that to four hours. Is that correct?

Mikey O'Connor: Yes. I was going to get to that in a minute.

Michele Neylon: Okay. Sorry. I mean I jumped the boat or jumped the something or other.

Mikey O'Connor: Jumped the gun. That's the term you want there.

Michele Neylon: So you have to remember I come from a country where you can't get guns so I don't like...

Mikey O'Connor: Yes that's the point one of the beautiful things about living in the US is along with being able to get dynamite. That's my favorite.

Anything else about the goal statement?

Okay I don't see any hands so we'll go on to the next.

The next paragraph mostly was refining the point of contact. We...

Michele Neylon: Okay Marika has her hand up.

Mikey O'Connor:...to the telephone number or some other way that you - people can communicate in real-time and took out email. And then we also added in the RADAR reference.

And a trivia question of the day is what does RADAR stand for? James and I don't know so I didn't expand that acronym. But...

James Bladel: Well now I didn't say I didn't know. I said I think it stands for nothing. So...

Mikey O'Connor:That's true.

James Bladel: That's a nuance there.

Mikey O'Connor:That's true. I am assuming that it's got to stand for something but that's true. It wasn't that we didn't know. But we had a lively debate about that.

So anyway a point of the changes in this paragraph - oh Marika's got her hand up. Maybe Marika knows. Marika?

Marika Konings: This is Marika. I actually don't know what it stands for. I can imagine something like registrar administrative -- whatever. But I can find out what it means.

And I did have a comment on RADAR because I've been speaking to Tim Cole who's team manages the RADAR system. And then I think he just wanted to set, you know, the expectations straight on what RADAR currently does.

And as I understand it because we were talking about that, you know, RADAR might track who accesses what data and that that would be away as well to, you know, control or have a view on who sees what.

But I think what it currently does is that RADAR tracks who logs in and makes changes. It doesn't actually track who views what data.

So, you know, he did explain to me that if there would be the desire from this working group to have a system where for example RADAR would be used to actually log or start the EAC you could envision creating a kind of, you know, email system or a form that a registrar would need to be filled - would need to fill in that would then as well, you know, have a time stamp and actual, you know, actual data of when an EAC would be initiated.

I think at this stage would not envision that the RADAR would also be used for a response. So you would still need to track as well, you know, when another response is received.

So I just want to, you know, make clear what RADAR currently does. And I'm not an expert on all the technical details. And I think if the

group wants to have a further discussion on that, you know, we can get someone on the phone in one of the next calls to try to go through what is currently possible and if there are additional features the Working Group would recommend in the context of the EAC to get a, kind of an idea of what that would entail and what kind of resources would be needed and time would be needed to implement that I think we could discuss that.

Mikey O'Connor: Let me respond real quick Marika and then I'll jump over to James because his hand went up in the middle of that.

But we're really just thinking at this stage of the game that RADAR would keep track of the contact information. It wouldn't do the logging.

We had a pretty extensive discussion about that on the call last week that said that some of this stuff might be considered for a phase two implementation but that for phase one we wouldn't want to stress RADAR beyond what it can do today.

James go ahead.

James Bladel: Yes. This fits I think more of what Mikey was saying. The two things we were looking for out of RADAR Marika would be -- and I'd be happy to talk to Tim about this -- would be one an area for registrars to publish the EAC contact information and have it labeled as their EAC contact.

And then two to restrict it so that it's only used by appropriate parties as defined later on in the term. And I think it will do those two things right out of the gate.

Future things as far as, you know, possibly tracking EAC messages and tracking response times, you know, we understand that would be a huge feature build out and it would be something that we'd have to look at down the road as a refinement.

Mikey O'Connor: Okay so then I see in the Chat that we're going to get the 24 hours in the next paragraph. But let's just wrap this one up and make sure that we're on the same page about this one.

If this is still confusing that would be - it would be important to clarify this paragraph. But really what we're trying for here is the point of contact information only in RADAR.

Okay I think we're okay there. The next one...

Michele Neylon: Sorry...

Mikey O'Connor: Sorry Michele, go ahead.

Michele Neylon: The - I have a small problem with telephone number. Because I think if we're - because I thought we were talking about logging the fact that the contact was made.

Mikey O'Connor: Yes but we leave the logging duty in the hands of the respective registrars. That's down a...

Michele Neylon: Oh I see. Okay. Okay so...

Mikey O'Connor: It's the whole - so anyway that logging stuff isn't addressed by this paragraph at all.

Michele Neylon: Okay sorry. I'll shut up now.

Mikey O'Connor: No worries. Anything else on this paragraph folks?

Okay next one -- and this is where we can pick up the 24 hour conversation again -- is pretty minor changes, you know, mostly just wording changes to clarify who's responding.

But it is in this paragraph that we specify the length of time. And we did have a conversation that's - that James started on the list about that time interval.

And I think this is probably the right time to have that discussion. And James maybe you want to kick that off?

James Bladel: Sure. This is James speaking. Thanks Mikey. And the idea here being that while 24 hours is easy to measure and easy to remember, it is an incrementally small investment to go from a 24-hour response to a shorter response which I suggested possibly as four hours.

The reason being that when we talk about especially in the area of hijacks, when we talk about harm we're talking about something that's occurring - that's measured in hours or minutes so I think that responsiveness is key.

I think most of the large registrars will probably assign this to existing support escalation processes. Smaller registrars may look to their own individual teams as well as possibly augmenting those with paid services.

So I think that it's not outside the realm of reason to request that we have a faster reaction time and that this is truly for emergencies only.

And I think that we need to just keep in mind that there is a compounding harm element that goes on as the time goes on. So that was my reasoning behind requesting a shorter time window.

Mikey O'Connor: And this is Mikey. I agree wholeheartedly. And that's enough said I think. Paul go ahead.

Paul Diaz: Thanks Mikey. Just wanted to say for the record I agree with both what James said and what you've offered as well.

You know, it is very important to remember this is a very limited purpose, this channel. And the more time that goes by 24 hours, I mean think back to some of the cases that have been well publicized, hijacking cases, how detrimental it'd be if the gaining registrar, you know, could drag it out as long as 24 hours.

The other thing to note and it's very clear in the text is that this is, the short timeframe is for the initial response always, always, always. It's not resolution of the alleged hijacking. It's the response. It's there in the text but we can't make that clear enough. It's to get the communication started within the short timeframe, not to have the whole thing wrapped up to the complaining party's satisfaction.

Mikey O'Connor: Thanks Paul. Marika first and then Michele.

Marika Konings: Yes this is Marika. You know, I don't disagree. I don't have a specific opinion on the timeframe that should be given.

One concern I do have and that, you know, it's linked may be as well to the second, the next paragraph is that if affiliates responds results in the undo of a transfer this actually doesn't prescribe what kind of information would need to be provided or, you know, what timeframe the gaining registrar or the gaining registrar would have to respond and say well, you know, I did respond or, you know, here are the reasons why I didn't respond. You know we had an earthquake, you know, whatever kind of situation there might've been or valid excuse.

So I'm wondering as well if anything more needs to be prescribed in this or if the expectation that would be part of the implementation, you know, that staff would prepare on how this would be implemented and how your compliance would be measured.

So there's the question I have in relation to reducing the timeframe and how that will be linked to any timeframe given for actually - before you actually do the - undo the transfer to make sure that there's due process and an opportunity to, you know, respond or clarify why there wasn't a respond.

Mikey O'Connor: This is Mikey. I think again the confusion comes in, in how limited this is. I mean you're right Marika in that there are possible circumstances I suppose where there's an excuse. But I think that they are so limited that we run the risk of sort of overt engineering this.

You know, it's kind of like Bill Cosby, a famous American comedienne who used to work in his jokes, an elephant stepped on my homework. That's why I didn't hand it in.

I'm this - the scenarios where there's a valid excuse for not responding are so narrow that I think we'd probably struggle to come up with good ones.

Marika Konings: Well Mikey would there be a situation as well where the losing registrar would just tell the registry well we didn't get a response. Can you please undo? But where the gaining registrar well we did respond where there's, you know, bad intent on the part of the losing registrar to, you know, undo the transfer.

Could that - is that a, you know, I don't know if it's a realistic scenario but I could see that happening.

Mikey O'Connor: Yes I think that's called fraud.

Marika Konings: Right.

Mikey O'Connor: You know, that's handled by courts.

Marika Konings: Right but then you still have the situation where the transfer has been undone. So I'm just wondering if there should be something in there where there is a kind of timeframe or I don't know if it's then the registry that makes that assessment or, you know, picks up the phone and says well hey, they told us that you didn't respond. You know, are you finding that?

I don't know if that's the question that is built in here that it's still the registry at the end of the day, you know, that will undo the transfer and have some discretion there to, you know, take someone's word for it or ask for additional information or evidence. I don't know if that's what is foreseen here.

Mikey O'Connor: I'm going to let Bladel take this one. His hand up - went up there. You want to take that one James? But you're muted you rascal.

Michele Neylon: Can I jump in Mikey?

Mikey O'Connor: Sure. Go ahead Michele.

Michele Neylon: But it's not related directly to what Marika is saying.

Just first off I wanted to echo what the others are saying that I support the concept because as far as I'm concerned it's an SLA type scenario.

So even if you want, you know, it's, you know, you contact us and we have to respond. As long as you don't expect us to resolve it that's fine. I mean, you know, not resolve it immediately in other words. So that's - it's a nonissue.

I don't see most registrars are going to have 24/7 staff on call if not actually sitting at a desk.

With respect to Marika's comments while I can understand her fears you're moving into something which is out of the scope of this.

We're - this is a very, very narrow -in my understanding this is a very, very narrow mechanism to start communication going.

If somebody were - is to abuse this then the same kind of sanctions that would be available under normal circumstances through civil action or otherwise would be available. At least that's my understanding. But I'd like James to speak to us if he can unmute himself.

James Bladel: I am unmuted. Thank you for your patience.

Mikey O'Connor: There he is, go ahead.

James Bladel: I was getting the little hourglass sign on my phone trying to unmute which is always fun.

Yes, you know, I don't want to sound dismissive of the points that Marika has raised because I think they're valid ones. But I think that, you know, if we put policy ideas that are attempting to solve I think, you know, pervasive problems, if we put them under a what if compliance or implementation microscope, you know, at every step of the process I'm concerned that what comes out the other side will either be nonexistent or unenforceable or, you know, not solve the problem it was set up to do.

So I think that they're valid points. I think, you know, let's encounter those problems before we attempt to solve them with additional language.

Let's get the general principles down on paper and put them out there and then let's see, you know, what transpires as a result of competing claims for emergency action channel or something like that.

I would assume that one party in that scenario would have some documentation, that it would be up to ICANN or the registry to make a judgment that says that, you know, one side is telling the truth.

But you know I really feel like, you know, there are so many rabbit holes that we can go down I just - I think we need to be cautious about going down them at this stage in the game where we're just trying to flush out these ideas. Thanks.

Mikey O'Connor: Thanks James. Okay other conversation about this paragraph especially the switch to four hours? Oh Marika go ahead.

Marika Konings: Yes this is Marika. I was just going to, you know, respond. And I really appreciate the feedback that (was) given.

I think, you know, from my perspective I'm trying to give as much feedback at this stage from, you know, ICANN's perspective because of course when this moves into implementation, you know staff will be tasked to write an implementation plan.

So I think any clarity on certain issues we can get now will be really helpful. But at the same time of course when, you know, when implementation plan is out that will go out as well for public consultation.

I'm really hoping as well that of course this group will still, you know, maybe remain in a dormant stage so at that stage it can't comment as well.

Because of course there are other issues that will need to be dealt with in implementation, you know for example, you know, how long are registers given to provide the EACD data?

What happens if they don't fill it in? You know, what kind of data would ICANN then put in there. Now so there's different steps that, you know, speaking to some of the people here in Marina del Ray that will be tasked with implementation that, you know, go way beyond what, you know, this working group needs to do, but just want to make you aware that there are certain issues that might come up in implementation but there are still, you know, plenty of opportunities at that stage to provide input and hopefully make it as simple as possible.

Mikey O'Connor: This is Mikey again. Let me just respond to that. I think there are a couple of things.

First what we need to do is invent some scenarios to test this problem. If an elephant steps on the registrar's phone and they can't respond or an earthquake or the polar ice cap melts, et cetera, et cetera, I think we need to get a sense of some of the plausible scenarios that this could happen in.

But the other point that I really want to amplify is that in Section 6 of this policy it's the duty of the registry to do the transfer undo.

There's no expectation at least in my mind that there's going to be a tremendous burden on anybody to do anything particularly different because documentation requirements are already contained in this policy. And the process of a transfer undo is already laid out.

So I'm not expecting a tremendous change to ICANN process as a result of this. Michele go ahead.

Michele Neylon: Right. Mikey, just coming back to this thing about the what if type scenarios. Okay the kind of blunter less tolerant version of me say it comes out - reaction would be expletive then. And if you can choose whichever expletive you want to use. Because I'm getting a little bit tired of being forced to pay for the screw ups and the shortcomings and the general ineptitude of some people who operate in the Internet industry in general, not just registrars.

The more reasonable me would say well then maybe what we need to look at is some simple not overly complicated, not overly burdensome reference to some, I don't know, something along the lines of I mean basically what you're talking about is kind of, you know, natural disasters, acts of God, the kind of things that you might find as kind of boilerplate in a lot of contracts.

You know it's - I don't actually know - exigent circumstances is one possible term that somebody gave me. But, you know, they - the point being that let - we cannot possibly - we have to hit the balance right.

And look what we're working on here I think - and I'm feeling very optimistic is that we can come up to something that is workable but is - it's not going to make everybody happy. It's not going to fix all that evils

in the world. But at least it means that we will have fixed this one part of the problem.

And, you know, ultimately we cannot spend our entire life kind of warning about the what-ifs, what is, what if's. The, your, okay you want to talk about the elephant. I mean what about - what if the elephant did this or the elephant did that or the cat ate my homework?

We're not all 12-year-olds anymore right? I haven't given the cat ate my homework excuse for a long time. My excuse these days is much blunter. It's more along the lines of I was too tired. I didn't do it, you know? That's just me anyway. So I'll shut up now.

Mikey O'Connor: This is Mikey again. One idea that came to me during that was we could do something similar in this regard that we did in terms of the further down in this document you'll see that we refer to the RAA for the documentation requirement.

It seems to me that this issue that's, you know, it's in the US law it's usually called force majeure. Surely there's force majeure kind of language already in the RAA. And maybe what we could do is refer to that.

Michele Neylon: I don't think there actually is Mikey.

Mikey O'Connor: Well if there isn't then I think it would be a good question for the legal folks as to whether they want to only have a force majeure clause in one part of one policy.

I think if there isn't such language in the RAA then we're getting a little bit ahead of the curve on this and that, you know, we should defer I think to the broader contract when it comes to issues that are really sort of outside the scope of this particular policymaking initiative.

I have Bladel saying no force majeure either. It seems to me that - go ahead James.

James Bladel: Hi, yes I was wondering if I could just kind of get us back, you know, on to the - out of the weeds and on to the high road a little bit and just...

Mikey O'Connor: Good plan.

James Bladel: ...you know, continue to pull us back on to the document. And just to say that, you know, there are going to be a lot of reasons why a small and/or, you know, more improvisational or ad hoc Registrar is going to have problems meeting some of the deadlines or requirements or things like that.

Those are the folks they don't (come) to ICANN. They aren't on these calls. They don't participate in policy development. And they are the folks that a lot of the criticism in this industry is rightly directed towards.

So, you know, I think, if nothing else, perhaps compliance with an EAP program would draw a bright line between those of us who do continue to participate and continue to drive this industry forward versus those who are continuously operating at the margins and causing us all problems and perception issues. Thanks.

Mikey O'Connor: Okay, so I am going to do sort of a going once, going twice routine on the switching the 24 hours to four. Is there anybody who disagrees with that idea that would like to voice their disagreement?

I'm not seeing any so I am going to take that as a deal. You can have second thoughts until the end of the call. But to push us along, I agree, you know, we did get a little bit off on the weeds there.

The next paragraph talks - (let's) see. I don't see the - I guess I just added this stuff. There wasn't any deleting going on. And basically what we were doing was just tying it to the other section here, nothing particularly special.

Going on and turn right ahead here, the next paragraph - both parties will retain written or electronic documentation. You can sort of see the dialogue there on the side. And then this is where we put the reference to the RAA and just to bring it in line with that larger document.

And then on the next page, the last page of this, we sort of backed off the language on ICANN's and left as much flexibility as we thought we could for ICANN to sort of figure out what they are going to do. So rather than insist on -- in the first draft there was a schedule that said ICANN will conduct tests at least once a year and preferably once a quarter -- a bunch of stuff like that. We took that out and essentially provide a little more wiggle room there.

Marika, I saw your hand go up. Go ahead.

Marika Konings: Yes is doesn't work in relation to the written or electronic documentation as -- I received a comment of saying if it would make

more sense to say something like correspondence may be main - retained in written or electronic form, because here you're talking about written or electronic documentation while I think you're trying to say that the correspondence may be capped either in paper format or in electronic format. It is just a minor point.

Mikey O'Connor: So, I mean, I was being a bad guy and reading the chat at the same time. So you're suggesting changing the language to say in written or electronic format.

Marika Konings: Well we said correspondence will be retained in paper or electronic format.

Mikey O'Connor: Correspondence will be retained - okay. I've got the MP3. I'm taking stupid notes. I...

((Crosstalk))

I think what I would probably tend to do is look at the language in Section 3.4 and mirror that. But let me take a crack at that after the call. That seems doable.

Marika Konings: Okay thanks.

Mikey O'Connor: And I am kidding when I say it's the end of the call, people. Everybody sort of went crazy in the chat and said Mikey, "There are people that aren't on the call. You might want to give them more time." That's fine.

Then the only other -- and this is new -- is the last little paragraph inserts a clause into Section 6 that basically just refers back up to this and says that one of the now four reasons for a transfer on do buy registry is documentation provided by the Registrar of Record prior to transfer that the gaining Registrar has not responded to a message via the EAC within the timeframe specified.

That's the thing that actually triggers the undo. And it ties those two pieces together. And that's part of the reason why I'm so comfortable with this change is because we are really just adding one reason to an already existing process. And the reason is the EAC that we lay out in Section 4.

James go ahead.

James Prendergast: Hi, so this is one area where maybe I am going to contradict something I said a little bit earlier and would like to see a little bit more flexibility.

And what I'm getting at here is that I want to make it clear, and maybe I'm not understanding, that a failure to respond to an EAC message can or may translate into a transfer undo, but it doesn't have to.

And I'm thinking, or envisioning, of a scenario where I have a question about a transfer. Or I feel that there is a transfer that's suspicious. But I don't necessarily want to undo it. I just need an emergency - whoop. Then I guess I've answered my own question. Then it's not an emergency, and I don't need to be using the EAC. So I was wrong. Thanks.

Mike O'Connor: Yes I was all ready to pull the trigger on that exact logic. So thank you for taking care of that for me.

James and I, you know, and to, you know, in full disclosure, James and I went back and forth a little bit on will versus may. And, you know, we've landed on will for a whole bunch of reasons, which I am happy to reiterate, but won't unless people want to hear them.

All right, any...

Marika Konings: Mikey, this is Marika. On the reasons why you've change it from, you know, may to will, I think it would be very helpful if you could write something up so we can actually include it in the report. Not as maybe part of the policy proposal, but I think we need to explain a bit in the report, you know, why we've gone down certain rows and not others.

So if you have any of the arguments for that it would be really helpful if you could, you know, maybe send that so I can include it in the notes of the report that will precede the actual recommendation.

Mikey O'Connor: All right. I am happy to do that. I think that there's really two things. One is that, and then the other is getting back to Simonetta's point which is sort of laying out the other options for action by the Registrant in all of this. So I think we've got some documentation that we need to generate to surround this.

I think I'm done. Unless folks have other comments -- the chat is kind of going crazy -- but Michele I think I'll hand the microphone back to you...

Michele Neylon: Reigns.

Mikey O'Connor:...and let you run it from here.

Michele Neylon: Can I have the - can I call them reigns?

Mikey O'Connor:Reigns - you're more than welcome to the reigns.

Michele Neylon: Yes, well, that was we're allowed to have horses here. We're not allowed to have guns, but we're allowed to have horses.

Okay thanks very much, Mikey, for all this. Okay then. Does anybody have any issues, queries or anything at the moment in relation to any of this document? Marika?

Marika Konings: Yes this is Marika. I am just wondering whether some of you wants you, I think, for the next call we probably will have the, you know, almost final draft of this to take into Council. And I think of the minor points we discussed now, but I'm wondering, as well, if it makes sense then once we have that draft that some of you maybe go back to your respective stakeholder groups just to do a quick check.

You know, as this proposal hasn't really gone out for, you know, we've outlined the broad concept but not the real details. So that we have a check with some of the different groups just to make sure that, you know, we did get it right, that there are no major issues that people have identified and that we are comfortable putting this in the final report and putting it forward to the Council.

I'm wondering if that is something people feel would be helpful or would make sense at this stage.

Michele Neylon: So who would be looking at this exactly, Marika?

Marika Konings: Oh I'm wondering, for example, as in maybe in fact Registrars. I'm wondering, for example, the Registrar stakeholder group. You could just informally circulate it basically saying look this is the, you know, basically almost final proposal that the working group wants to put into its report. You know, does any of you identify any major issues, anything that we have overlooked or where you see, you know, real...

((Crosstalk))

Michele Neylon: Okay, (well), okay if we can get a clean draft of that I have no issue with circulating that with - amongst the more active members of the stakeholder group.

Mikey O'Connor: Michele this is Mikey. I am going to jump in on this.

Michele Neylon: Yes go ahead.

Mikey O'Connor: I think that we need one other document before we do that. And that's...

Michele Neylon: Okay.

Mikey O'Connor: ...the - essentially the surrounding rationale. I think if one thing we've learned from this before is that when we put the straight policy draft out there, without any context, we get a heck of a lot of confusion.

And rather than just sending this out without any surrounding context, I think we need to write something that introduces it. And maybe it is in the form of an FAQ. I'm not sure. But I think it would be a bad idea to send this document as it stands without some sort of support.

Michele Neylon: Okay. Rob?

Rob Hull: I was only going back to the thing with the losing Registrar enforcing the (fight) here. It's like will and must or if you have legal conversations, it might be better if it was (lettered) the losing Registrar should report daily and respond to EAC. And failure to respond to any EAC requests may result in a transfer undo. It is simply otherwise you're saying it will always happen. And that may not necessarily be the right outcome.

Michele Neylon: But I think the entire point was, Rob, was that this is what we're trying to do is to make us to be the outcome. Unless I...

((Crosstalk))

Mikey go ahead please.

Mikey O'Connor: This is Mikey. This is essentially the conversation that James and I had.

Michele Neylon: Yes.

Mikey O'Connor: And my question to you, Rob, is can you come up with a scenario where the right outcome would not be a transfer undo, because

basically what we are trying very hard to do is avoid any policy that requires a dispute resolution as part of it.

And, you know, that's why the scope of this is so limited. It's - and I am pretty emphatic about the logic of this which is if this very narrow circumstance happens, then this other thing will happen as a result.

Rob Hull: Are you still relying on the registry doing the undo and whether or not they choose to do so? Not actually an undo, we're not sending a please undo the transfer (unintelligible).

Mikey O'Connor: I think that that's probably a question for a broader discussion of this policy. If this policy is optional for registries, then we've got a different problem to solve than the one you're describing, because basically what this policy says now is if the following four circumstances occur, the registry will undo the transfer. That's Section 6.

Michele Neylon: Well I think, Mikey, and if there is an issue with what - how registries handle undos or don't handle them or whatever, then maybe that's something that the Registry stakeholder group would be better positioned to address.

Mikey O'Connor: Yes I mean essentially if we're making transfer undos optional for registries, that's a whole different discussion than this one, because there are three other reasons for transfer undos that are already in the policy. And so if we're suddenly opening up this can of worms to say transfer undos are optional, well then...

Michele Neylon: Well they shouldn't be optional, because that kind of defeats the entire purpose of the...

Mikey O'Connor: Right.

Michele Neylon: ...exercise.

Mikey O'Connor: That's the whole point.

Michele Neylon: I mean unless, again, unless of course I'm missing something blindingly obvious. Barbara are you still with us?

Barbara Steele: I am still with you. And I agree that, you know, to the extent that, you know, registries receive a directive from the Registrar -- in this sort of situation where perhaps the other Registrar is not cooperating -- then I agree that it should not be an optional thing; that, you know, we should be able to rely upon the Registrar who is submitting that to us to effect the undo.

Michele Neylon: Let me put another question to you. Based on your own experience and knowledge of your industry peers, do you think that there is even a remote possibility that any of your peers may have issues with this concept?

Barbara Steele: I don't think so, so long as, you know, the circumstances are defined and there is, I guess say -- I don't know how to describe it -- but basically there is, you know, in essence a release from liability.

I mean we have to be able to rely upon, you know, the directive that we're receiving from the Registrar that, you know, they are acting in good faith, and, you know, that the other Registrar has not been

responsive. And so they are bringing it to us to be able to effect the undo.

Michele Neylon: Okay when we're working on the basis that in the context of this policy what we're talking about -- I mean as I said already -- is that, you know, all of the normal remedies that would be open then that we're making the normal assumptions that basically the Registrar requesting it isn't a scumbag, is a Registrar in good standing, isn't a criminal, et cetera, et cetera, et cetera, et cetera. These area all just kind of safe assumptions that we're making without actually explicitly stating them.

Barbara Steele: Right.

Michele Neylon: So in - given all of the above, and based on the fact that we're dealing with this in this very, very narrow context, you wouldn't foresee any issues?

Barbara Steele: Correct.

Michele Neylon: Okay thank you. Marika?

Marika Konings: Yes this is Marika. On the point indeed of, you know, may/will, I still feel just a little bit uncomfortable on really making it so strict, because I'm wondering it's all, you know, a situation where you could imagine like if a Registrar indeed files an EAC, but in that, you know, four hour window -- or whatever the window of response is going to be -- he receives additional information which makes it no longer an emergency. But he did file that request. You know, he doesn't have to report if there is no response. There is no option for him to say, okay,

well I did file a response. But in the meantime I got new information.  
And, you know, it's fine

Michele Neylon: Surely, but surely that constitutes as a response of sorts, Marika.

Marika Konings: Well...

((Crosstalk))

Michele Neylon: Because that would be...

Marika Konings: If the information is not from the losing - if it's some other information from, you know, whatever source. I'm just trying to see if as well, I wish there would be as well a way of saying like in certain circumstances there might be a reason why there's no report or no reason to undo even though there was no response and an EAC was filed.

Michele Neylon: Okay Mikey has his hand up. So let's see if he's got some - and then Paula...

Marika Konings: (And I've still got a second point) to come back to but let Mikey first respond.

Michele Neylon: Okay.

Mikey O'Connor: I think you almost said it perfectly, Michele. If the gaining Registrar responds, the game is over. That's all that needs to happen. So if it turns out that a third party provides information that changes somebody's mind, that's great. The gaining Registrar should still respond.

What we're trying to do here is induce a conversation between the losing Registrar and the gaining Registrar. And if at the beginning of that conversation, the losing Registrar says, "Oops, I'm sorry. I have gotten additional information since I filed my EAC with you. And this issue is moot." That's fine.

The gaining Registrar will have responded. That immediately blows up the transfer undo, and the various people can go off and do whatever they do. So again the key here is to keep any hint of dispute resolution out of this process.

Michele Neylon: Paul, Rob and we need to go back to Marika as well.

Paul: Okay thanks, Michele. I think I agree with everything Mikey just said. He explained it. You know, in a scenario where circumstances change, if within the first four hours the gaining Registrar has not yet responded, the losing Registrar, upon further investigation -- it's own investigation -- it determines whoops, this - there was something amiss. This wasn't in fact a hijacking, et cetera. There is not going to be anybody there to complain.

So I mean I think in all the scenarios that we're describing, look, the whole point of EAC is to start - enable and start a dialogue. And in circumstances where something has changed and somebody is, you know, the parties in question are communicating -- if in fact there's no longer a problem -- well no problem is no problem.

And like Mikey said the original cause gets blown up. And we all go back to business as usual. The key here is to create a mechanism to facilitate communication. That's it.

And then, you know, what gets done after that is between the parties to the situation. I think we are spending an inordinate amount of time what ifs scenario mongering. And it's not really serving any useful purpose.

Michele Neylon: Okay thank you, Paul. Rob and then Marika.

Rob Hull: Yes I'm not disagreeing with the idea. It's simply in terms of the structure of the wording. The - and not going to disagree at all with what Mikey said that if this should all blow up or go away or the losing Registrar (unintelligible) (facts) that says we should really (unintelligible) in which case it all goes away.

It's the wording says that the failure to respond will be reported and that in reporting it, it will undo the transfer. There is nothing in there that says, oh, the losing Registrar can change their mind.

Michele Neylon: Okay, Rob, come on. Now just - look you provide hosting for companies of different shapes and sizes.

Rob Hull: Yes.

Michele Neylon: Okay do you provide SLAs to your clients?

Rob Hull: Depending on the service they've got, yes.

Michele Neylon: Okay so working on the basis that you do provide SLAs to certain clients, and that you understand the concept of an SLA, why would you not be willing to comply to an SLA from ICANN which is basically what this is?

Rob Hull: It's not the case of not wanting to comply with an SLA. It's the case of having to comply even if there...

Michele Neylon: But it's policy. I mean if it becomes optional, then why would somebody actually do it if it's optional?

Rob Hull: Okay, I mean, like I say it comes back to the legal use of things like will and must.

((Crosstalk))

Michele Neylon: Yes but the point being, though, if we use something which - something like should or could or anything like that which makes it - which leaves a narrow chance of it not happening, then we might as well not actually have this from, in my personal view, because that's - it just waters it down completely to render it useless.

Rob Hull: Okay.

Michele Neylon: Well that - I mean you are entitled to your opinion. Marika and then Mikey.

Marika Konings: Yes this is Marika. And this relates back to an earlier comment from Mikey on writing the rationale. I just wanted to note as well I think, you know, part of the rationale can already be found, as well, in the

proposed final report, because I think we did outline there why we were, you know, moving toward the EAC.

I think it probably just needs some, you know, further clarification in relation to the details that we've decided upon for the proposal like, you know, the timeframe, the will/may, all those issues. So I think we have a basis, probably, in the report already. We just need to beef it up a bit.

Michele Neylon: Okay thank you. Mikey?

Mikey O'Connor: Oops, sorry, muted - I am going to take one more run at Rob's comment, because I get what your concern is, Rob.

But again the simple way to solve that problem is if the gaining Registrar responds to the EAC, you know, let's say the scenario you describe happens. And the losing Registrar finds themselves (sic) in the circumstance where they don't want the transfer to happen, because they have figured out something else is going on, like Paul described.

Two possibilities exist: 1) and the most preferred possibility is that the gaining Registrar responded. And so, as a result, it doesn't matter that the circumstances has changed because the response is there. And that immediately voids the possibility of a transfer undo under this policy.

The second, I suppose, informal option would be that the losing Registrar, having found themselves in a circumstance where this isn't the appropriate thing to do, would either just cancel the Emergency Action Request or, you know, send another one and say, "Never mind" and document it.

Man: Yes.

Mikey O'Connor: You know, both of those it seem to me, are reasonable options in this circumstance. But the easiest way to solve this problem is just all Registrars get in the habit of responding to Emergency Action Requests. And all Registrars -- and ICANN -- get in the habit of being very careful about when they issued these requests so that they don't abuse it.

Michele Neylon: Mikey I don't know why I put myself in the queue since I did take the reigns back.

Just one thing I suppose in some ways I'll actually disagree with you to a certain point, because ultimately all we're talking about is getting a response from the gaining Registrar.

Mikey O'Connor: Right.

Michele Neylon: And four hours is a very short window. So I'd work on the basis that, you know, you should just expect a response even though the response might be whiskey tango foxtrot.

Mikey O'Connor: Yes, I think that you're (right).

Michele Neylon: You know, as in that's a response.

Man: Yes.

Michele Neylon: It may not be the response you're looking for, obviously, but it's a response.

Mikey O'Connor: Oh no, I mean in that circumstance, you know, where there's an actual disagreement between the two Registrars, that's absolutely covered. The issue that Rob is describing is where the losing Registrar realizes that they made a mistake. And this ticking time bomb of the automatic transfer undo is sitting there even though the gaining - the losing Registrar doesn't want it to happen, because they've figure out...

((Crosstalk))

Michele Neylon: Yes but the counter argument I would have to that, though, is the fact that the gaining Registrar is unable to answer within the four hour period would render them noncompliant...

Mikey O'Connor: Right but let's say that...

Michele Neylon: ...which would identify an issue, a general issue, with that Registrar as opposed to an issue with a specific transfer in question.

Mikey O'Connor: Right but the transfer would be undone when, in fact, it shouldn't be.

Michele Neylon: Yes but that's - but this comes back to the root problem here. If the Registrar is unable or unwilling to respond within the four hour window, regardless of the nature of the transfer in question -- because remember we're not - there's no arbitration here -- then there is a systemic problem with the Registrar in question.

Mikey O'Connor: Yes...

Michele Neylon: Rob?

Rob Hull: So if I ring you up, Michele, and say I've got a problem with this transfer. Client says it shouldn't have gone out, and I'm sorry. I'm completely wrong. I picked the wrong domain name.

Michele Neylon: Yes but I - but you spoke - but I've replied to you already, Rob.

Rob Hull: Right.

Michele Neylon: That's the entire point. Even if my reply to you is simply I'm not sure what you're talking about or whatever, I have replied to you.

Rob Hull: Okay...

Mikey O'Connor: Right.

Rob Hull: ...of course I'm going to have to verify that the other party really did respond.

Michele Neylon: Yes, but this is the entire thing, as in this comes back to the document. The entire concept here is we're not making a judgment call, okay? We're not judging whether Party A or Party B is in the right or is in the wrong. We're not getting into an arbitration. It is not a policy dispute. It is none of those things.

All of those policy dispute mechanisms, the WIPOs, the civil actions, all of that still remain open for us and abuse by anybody who wants to use them, okay?

What we're looking at here is a very, very simple thing, which is why I keep referring to the SLA concept, this kind of works for me. In an SLA you're not going to guarantee to your client, no matter how much they're paying you, that 100% of the time you're going to be able to solve the problem within a fixed period of time.

Rob Hull: Yes, right, that we expect (unintelligible) to do X and if we don't meet X this is what you get back.

Michele Neylon: Oh, yes, yes, there's all that stuff. But the point I'm getting at though, the key thing is that the SLA is that you will respond within a period, generally speaking. There's something about response times in there usually. And, you know, as long as you - depending on the SLA that you have.

You know, but basically it's like, you know, the point of the matter is if, for example, you contact GoDaddy's emergency contact line, GoDaddy will answer their contact line, even if you afterwards discover that you didn't really have a proper reason to contact GoDaddy's emergency line for whatever reason, the point being though that GoDaddy will be compliant because they answer the phone, or they answer the email or they sent you back a fax.

Does that kind of make sense to you?

Rob Hull: It does, it's purely the bit about the - the (unintelligible) registrar and it automatically goes through. It just stuck on the (chat).

Michele Neylon: Okay, I'll put it to you this way, right? If you have a look at historically what happened with regard to certain registrars over the last two or three years, Rob, are you up-to-date with all your ICANN fees?

Rob Hull: Yes.

Michele Neylon: Is ICANN compliance hounding you over anything at present?

Rob Hull: Only over one issue (unintelligible).

Michele Neylon: Okay, but just generally speaking the answer is kind of pretty much no, because you're probably talking to - you're going to resolve it. At least I hope you are.

Rob Hull: Yes, we had an issue with one of the (unintelligible).

Michele Neylon: Yes, okay, look, that's fine; everybody has that problem at least once. But what I'm trying to say to you is that in general terms you are currently compliant.

Rob Hull: Yes.

Michele Neylon: You would not be considered to be a zombie registrar, an uncontactable registrar, a rogue registrar who does not respond, or any of those kind of things. Okay? So what are you worried about? Why are you worrying or concerning yourself about somebody who is not going to respond? Why would you be financing their business?

Rob Hull: I probably shouldn't be and (unintelligible).

Michele Neylon: But that's the entire point. That is the entire point. If you were paying your fees and I'm paying my fees, and Network Solutions are paying their fees and GoDaddy are paying their fees, why would we be financing and propping up other business models where they're not actually doing what they're meant to do?

Rob Hull: (Shouldn't be).

Michele Neylon: Thank you. I rest my case. Next? Any other queries or questions on this? Okay, then, now the - okay, we'll have a clean copy of this document and then we will be able to use some of the background material that is in the actual report to act as an introduction and then it's suggestion that we possibly circulate this to our own stakeholder groups informally to get some kind of feedback. Is everybody agreed on that as a course of action? Does anybody have any comments or any issues with that?

Bob? Any issues?

Bob: No, sounds good.

Michele Neylon: Okay, and I've always liked Perry Mason. Any other issues, any comments on that? No? Okay, then. Could we have the public comments back up on screen please? And bearing in mind we're into the last 30 minutes which James is calling, "The bonus round."

I like that, actually, "The bonus round." Okay, so Rob, go ahead.

Rob Hull: Oh, sorry, (unintelligible) left that from earlier.

Michele Neylon: Okay, that's okay. All right, now, Marika's telling me that we are on Page 4. Is this thing not working for me? I'm sorry. It works and then it just stops working. Page 4, Number 15. Okay, just give me one second. Right, okay, Page 4, Number 15. "What qualifies to respond? Most members of the registry, stakeholder group, feel that as a minimum a positive confirmation of receipt, an initial human contact is appropriate."

I think we've answered that in detail already. Does anybody have any other comments on this? No, moving on? Fine.

From the business constituency a non-automated response would be preferable, but BC would defer to registrars and registries in determining what qualifies as a response be that email, phone call, fax, etcetera. So I would say thanks to the BC and I think we - believe we've covered that in detail.

From the ICA, "The different responses must be clearly delineated and mechanisms must be set in place to prevent abuse of the EAC in non-emergency situations."

Mikey?

Mikey O'Connor: I just wanted to chime in on this one. I think we've handled that in the policy, but I think that this is one of those things that we want to put in our FAQ or surrounding documents that says, "This is only for emergencies. Start using it for non-emergencies and you get whacked."

And I'm wondering whether we need to say that in the policy or not. I'd be inclined not to, but I leave that to others who live in this world more than me.

Michele Neylon: Mikey, you suggested that whacking people, which I presume was a kind of colorful way of referring to Compliance; will make their lives miserable. Is that what you were referring to?

Mikey O'Connor: Yes.

Michele Neylon: Okay.

Mikey O'Connor: And this, in a way, is another one of those rabbit holes that we could go down, because then we have to define what is an emergency, and I would prefer not to do that. But I think that that's the way that this is addressed.

Michele Neylon: Okay. Well, I mean, personally, and this is just my own view, I would not want us to go down too many rabbit holes because, well, you know, rabbits live down those holes and I wouldn't want to upset them.

Marika, you have a hand?

Marika Konings: Yes, this is Marika. I agree this is a rabbit hole but at the same time, you might put Compliance in a situation where they then would need to judge what consists of an emergency or not. Because if you, for example, imagine that indeed a registrar starts complaining saying, "Well, this registrar constantly keeps on contacting me using the EAC, but I don't think it relates to an emergency.

While the registrar that is using the EAC might say, "Well, we think it is an emergency." So I don't know if there are any kind of, you know, if there's something we can put in there, I mean, I think we're mainly talking here about hijacking, but some kind of description because otherwise we might put Compliance into a position where they need to judge without any kind of guidance on what this working group intended to be an emergency.

Michele Neylon: Okay. Mikey, is that an old hand, new hand, fresh hand?

Mikey O'Connor: Sorry, old hand, taking it down.

Michele Neylon: Okay, that's fine. So it's kind of crusty. "Is an auto-response sufficient? An auto-response is not sufficient." ALAC and registrar stakeholder group, we agree with this, I think. I'm going to run through these really, really quickly, if people don't interrupt me I will just keep going, just so you're aware.

Okay, "The goal of the EAC should be to resolve the issue, not to merely advise the receiving registrar that an issue exists." That's in the registry stakeholder group, and we will politely disagree. We're talking about the using the EAC to start the dialogue. Paul, go ahead.

Paul Diaz: Yes, Michele, I agree with you. We can disagree, but I believe that - remember the timeframe in which these comments were posted, our concept was kind of poorly defined back then. We've come a long ways now and I think it'll be very clear to everybody that...

Michele Neylon: Okay.

Paul Diaz: ...that it's a communication channel. So it's good to move on.

Michele Neylon: Okay. I'm just trying to go through the comments that we had. So that's fine. What the hell is GD? Is GD GoDaddy or is GD something else?

Woman: Yes, GD is GoDaddy.

Michele Neylon: Oh, they've got their own special acronym? Okay, right, "An auto-response is not sufficient, but auto-responses may be used during the process to keep parties informed of NTIA," so that's fine.

"ICANN compliance should test this channel periodically to insure a non-automated response," and we have that covered.

Now, "Should there be any consequences when a response is not received in the required timeframe." I can't speak English anymore, "timeframe?" And both ALAC, NTIA and the registry stakeholder group all agree that there should be consequences. The registry stakeholder group also go into further detail on what those consequences could be. I think we do cover that in our document.

Mikey O'Connor: Hi, this is Mikey. Let me jump in here. We are pretty open-ended on those consequences. We don't - the registries are requesting something that's a little bit more structured than what's in the current draft.

Michele Neylon: Now is that a good thing or a bad thing, Mikey?

Mikey O'Connor: Well, I'm putting it out there as an, "I don't know," and Barbara, if you wanted to chime in. I could go either way.

Michele Neylon: Let's go with something very simple. Okay, is there anybody who is against the idea of us stating in simple terms something along those lines? You know, that basically what their comment summarizes?

Does anybody have any feelings about this at all? Okay, personally I think we should kind of fill the void a little bit because otherwise it's going to get - we're going to have problems with Council who are going to ask, you know, what exactly was - you know, they're going to ask for an explanation as to the gap. So maybe Mikey, you could add something in?

Mikey O'Connor: I'd be happy to; I'll drag you back to the draft. The sentence that we have in the draft right now says, "Failure to respond to an EAC will result in a transfer undo in accordance with Section 6." That's the non-controversial part.

The part that we would be revising is the part that says, "And may also result in further action by ICANN up to an including non-renewal or termination of accreditation." But we don't specify any rules around that. And what I'm hearing is the possibility of writing some, you know, putting some numbers in there, and some timeframes, so on and so forth.

So that's the - I don't want to just write that on my own. Again, I was the one that wrote the BC position that said that we defer to the registries and registrars on issues like this. And so I'd like some instruction before I write stuff.

Michele Neylon: Okay. So...

Mikey O'Connor: Now is there - this is Mikey again, is there a comparable escalation in some other policy that we could mimic or refer to or mirror or...

Michele Neylon: I'd ask Paul Diaz or James if they could answer that. Guys?

Paul Diaz: Yes, it's Paul, Michele, I can't think of one and I was going along that line. I hate to punt this but I honestly need more time to think it through and would ask that we continue this particular conversation on the list.

Michele Neylon: Okay, that's fine by me.

Paul Diaz: Because I was just going to say, Michele, I agree with you. I think it's a good idea to have some filling of the void without going so far to be hyper prescriptive and then that creates an additional unintended thing.

Michele Neylon: No, no, (don't be). I mean, the big fear I have, and this is just my own personal kind of interpretation/gut feeling, call it what you will, is that the GNSO is much happier when working groups send them things that can be kind of signed off on simply without leading to extra working groups or implementation groups or whatever the hell they're calling them this week. So the more precise, the more direction we can give, the better.

Okay, so look, if we can come back to that one. In the interim, Mikey, go ahead.

Mikey O'Connor: Just one more thing to throw into the sort of intellectual pot, and that is when we're finishing this conversation off on the list we'll also want to think about the scope of this escalation. I mean, right now we're down

in a subsection of the whole IRTP. And the question really is what happens when there are violations of the IRTP policy?

And we may want to write that escalating sequence of events to refer to the whole policy rather than just this little subsection. I don't know the answer to that either. That's again, one to defer to you guys who are smarter about this than me.

But I think one of the things we don't want to do is have one part of this policy very prescriptive and the rest of the policy not prescriptive. That will confuse people no end.

Michele Neylon: Thanks, Mikey. I'm now confused, but that's okay. Right then, 24 is to do with the remedial action against the registrar again. So I think we've discussed that next week, 25 part of that we've covered in the EAC, the other part is going to be the same thing as we're going to discuss next week.

Right, hold on a second, 27, this is slightly different. This is not to do with the registrars or the registries; this comment refers directly to the registrant, or a registrant, more to the point.

How would we like to handle this one? And the comment is, "Effective sanctions must be established against a domain (feller) who initiates an illicit reversal action." Paul Diaz?

Paul Diaz: Yes, thanks, Michele, I don't think that this one applies because, again, now that we've further defined EAC and made it clear that it's only for registrars, with the involvement of registries, this whole process - we don't have a situation like 26 - or excuse me, 27, where the end-user

can initiate the claw back. I think this is a claw back scenario that they're worried about.

Michele Neylon: Okay, so how would we - what would we say then in simple terms? Because as we have narrowed this down, we don't feel that this is an issue or...

Mikey O'Connor: This is Mikey. You could say something like, "Domain sellers do not have access to the EAC channel, and thus this is moot."

Michele Neylon: Oh, that's nice. I like that. I like that, excellent, thank you. Okay, then, 28, "Consider modifying the IRTP to mandate a transfer undo in cases where the gaining registrar does not respond in a timely way to an emergency action request regarding a suspected domain name hijacking."

And I think that was effectively been incorporated in to the document that we're currently working on. So I presume that was Mikey's wording which is why it looks terribly familiar.

Any other comments on that - on those? I think what we will do is, okay, we'll just do the next couple of ones and then we will call it a day. "Is there a limited time following a transfer during which the emergency action channel can be used?"

The - okay, so for the registries, "Recommend this channel must be invoked within seven days of the alleged incident. After this period and further, non-urgent and non-emergency situations, the existing communication channels and transfer dispute resolution policy process should be used." Mikey?

Mikey O'Connor: This is Mikey again. James and I were very careful not to put a timeframe in this policy because what we did not want to do is provide a roadmap for abusers to time their actions.

And so by consciously dodging the timeframe issue, what we're really striving to do is prevent an opportunity for a hijacker to wait one day past some deadline before they make their move. So I would lobby that we have addressed it in the current policy by not specifying a timeframe.

Michele Neylon: Okay. Okay, but how does one address then such queries as the next one, like the ICA comment? "The time period in which a domain transfer reversal can be sought must be far shorter than six months post transfer."

Mikey O'Connor: This is Mikey again. Again, I think part of it is addressed by the narrowness of the revised policy. What the ICA is concerned about is the claw back scenario.

Michele Neylon: Yes.

Mikey O'Conner: And that's mitigated in a couple of ways. It's mitigated because the registrant no longer has access to this process. It's also mitigated by the ease with which the gaining registrar can, you know, immunize themselves.

"All I have to do is respond." It's that whole conversation we had about 10 or 15 minutes ago where if a claw back attempt, and again, this is purely the claw back scenario that the ICA is worried about, if

somebody's trying to claw back a domain, all the gaining registrar has to do is call back and that immediately removes the threat of the transfer undo.

Michele Neylon: Okay, so...

Mikey O'Connor: You know, that's part of the reason why I think we need some sort of an FAQ because there's - this comment is really aimed at the last iteration of the policy and I don't think it's a concern in this one.

Michele Neylon: Okay. Well, that's fine, I think that answers it. So basically to kind of rephrase you slightly, the ICA and other entities are concerned about the - about claw backs and other abuse - and other possible abuse.

"Working on the basis that the registrars involved in aftermarket activities are acting in good faith, this should not be an issue because as long as they reply there is no - there is no issue - no risk of - of a unilateral transfer, " or words to that effect. Mikey, that okay?

Mikey O'Connor: Oh, yes, that's fine, sorry.

Michele Neylon: Okay. Support for reasonably long time table - time - oh, God, sorry, I've really not been able to manage clear sentences. Support for - support for a reasonably long window with the BC suggesting a range of 60 to 180 days. Mikey, is that you again?

Mikey O'Connor: Yes, that's me, and again, this is addressed in the existing draft by the fact that we simply do not specify a time window at all. And I think the BC is fine with that.

The real criterion for this is an emergency and when there's an emergency that's when this gets invoked and that emergency can happen in 10 minutes or 3 weeks or 5 months, but that's where I think we do need to clarify the emergency stuff just a little bit. But in terms of this one, the - I'll take a flyer and speak for the BC; I think we're fine with the current draft.

Michele Neylon: Okay, thank you. It's practically the end of the 90 minutes, so I'm going to give you all back about three minutes, which is very generous of me. So I'll speak to you all next week. Marika, I believe you are not joining us next week because you are off gallivanting?

Marika Konings: Yes, that's correct, I'm on vacation next week so would you like me to get someone else from Policy staff to support the call or you'll manage by yourselves for one week?

Michele Neylon: Well, we - can't we anoint Christina?

Marika Konings: Yes, but Christina manages the call, I don't know if she necessarily will want to update documents and take notes.

Michele Neylon: Oh, okay, okay.

Marika Konings: I can ask Margie, otherwise to cover.

Michele Neylon: Well, that's the middle of the - kind of - which time zone is she in?

Marika Konings: Will be very early for her.

Michele Neylon: Yes, I'm just always very conscious of dragging people very early out of their beds, I don't think it's very - if I can avoid doing it. Are any of the Europeans around...

Marika Konings: ...if one of you, because I think the main thing that might be better for me is to update the common review tool. So if one member of the working group would just like to, you know, keep track on what I should put in the common review tool, I think, you know, that's all basically.

Michele Neylon: Well, we're reasonably well behaved, we haven't squabbled that much most of the time. So enjoy your week off. Are there any other issues for anybody? No? Okay, then, speak to you all next week, then. Bye-bye.

Man: Bye, Michele.

Man: Thanks, Michele.

Mikey O'Connor: Bye, Michele, thanks.

Man: Thanks.

Michele Neylon: All right, bye.

Woman: Thank you.

END