

**ICANN
Transcription
Thick Whois PDP Working Group meeting
Tuesday 28 May 2013 at 14:00 UTC**

Note: The following is the output of transcribing from an audio recording of THICK WHOIS PDP Working Group call on the Tuesday 28 May 2013 at 14:00 UTC. Although the transcription is largely accurate, in some cases it is incomplete or inaccurate due to inaudible passages or transcription errors. It is posted as an aid to understanding the proceedings at the meeting, but should not be treated as an authoritative record. The audio is also available at:

<http://audio.icann.org/gnso/gnso-thick-whois-20130528-en.mp3>

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

Attendees:

Marc Anderson – RySG
Don Blumenthal – RySG
Christopher George - IPC
Volker Greimann – RrSG
Frederic Guillemaut - RrSG
Marie-Laure Lemineur – NPOC
Steve Metalitz - IPC
Mikey O'Connor – ISPCP
Susan Prosser – RrSG
Jill Titzer – RrSG

Apologies:

Roy Balleste – NCUC
Avri Doria – NCSG
Alan Greenberg – ALAC
Carolyn Hoover – RySG
Rick Wesson - Individual

ICANN staff:

Marika Konings
Berry Cobb
Lars Hoffmann
Julia Charvolen

Coordinator: Excuse me everyone. Just need to inform you that today's conference is being recorded. If you have any objections you may disconnect at this time. And you may begin.

Julia Charvolen: Thank you. Good morning, good afternoon, good evening. Welcome to the Thick WHOIS PDP Working Group call on Tuesday the 8th of May. On the call today we have Marc Anderson, Don Blumenthal, Christopher George, Volker Greimann, Marie Laure Lemineur, Steve Metalitz, Mikey O'Connor, Susan Prosser and Jill Titzer.

We have apology from Roy Balleste, Rick Wesson, Alan Greenberg, Avri Doria and Carolyn Hoover. And from Staff we have Marika Konings, Lars Hoffman, Berry Cobb and myself, Julia Charvolen.

May I remind all participants to please state your names before speaking for transcription purposes? Thank you very much and over to you.

Mikey O'Connor: Thanks Julia and welcome all. We've got a pretty short agenda today. We're going to spend a few minutes talking about what we'll be doing in Durban, and then take another pass through our draft to see how close we are.

So I'll just take a moment to let you talk about your changes in Statement of Interest and see if there's any change you want to make to the agenda. Okay, I think the plan at this stage - and I'm going to probably have to throw the ball a little bit to Marika because I'm getting my meetings mixed up.

But our plan is to have a public session where we'll go through this initial draft I think on Wednesday at the Durban meeting. And our thought is to sort of extract the big conclusions, the big issues, talk a little bit about what thick WHOIS versus thin WHOIS is and use this as an opportunity for the community to have a conversation about what we've been doing and where we've arrived. And I see Marika's hand up which is good. Hand it over to you Marika.

Marika Konings: Yes this is Marika and we're from Staff. We need to hand in our meeting forms, our meeting requests by the end of this week or I think actually end of Thursday.

And so at this stage I'm planning to submit a request indeed to have a meeting on the - on Wednesday to request a time of what I've suggested at the moment is from 11:00 to 12:30.

But I do want to put, you know, pencil it in and pencil in your diaries because it will all depend as well what other meetings are going to be scheduled and whether any moving around needs to be done so far as conflicts with other sessions.

At this stage I don't have any view of that yet so it will - it takes probably a little bit of time to really firm up what the time and the dates will be. But we'll try to do our best to keep it on Wednesday as I understand that's for most probably the most convenient time and will hopefully be a good opportunity as well indeed to present the report to the community, and already solicit feedback and answer any questions that there may be.

Mikey O'Connor: Terrific. So I think one thing that will show up somewhere on the list in a few weeks is a slide deck that summarizes our work. And most of the summary is relatively straightforward, but when we get to some of the more complicated issues you'll be wanting to keep an eye on that and make sure that we get it right.

And by all means any of you who want to join us there that would be terrific to have lots of us at that meeting so that I'm not making things up on the fly as I go.

Anyway that's the plan. Any thoughts about that? I - as I say I think this is pretty straightforward but just wanted to see if you all had any reactions to that idea or things that we should make sure we do.

Okay, now for the main event what's on the screen in front of you is the latest draft. And I sort of want to take this in waves the way we did last week and check and see if there are any big issues first.

And then Marika and I have a couple of questions for you embedded in this draft that have been there all along and I forgot about them last week. I should've highlighted them last week but we want to touch on those a bit and then, you know, sort of anything else.

But I really want to start with the big issues that are on people's mind. Just to remind you we had a pretty good solid conversation about the Synchronization and Migration section, which I completely screwed up and so that's been rewritten to reflect the changes the group came up with.

Pretty much headed back to Marika's original draft but I then tried to clarify that. The other big substantive change is the version of the conclusion to the Data Privacy and Protection section where what we did is took the two pieces that had been in the draft and combined them.

So we took the first section that I wrote and then the last section that Alan wrote and put those together. And I just want to take a moment to give people a chance to say yea or nay on this.

I think where we may be getting to is very close to a consensus call, and that would be great if we could be that close. The routine will be that we'll do sort of a preliminary nod on this call and then post a note to the list that says, "The folks on the call today are comfortable with the draft."

And then we'll do the real consensus call next week, just sort of the tradition of giving people a week to digest and think about it. And I, you know, I'm blathering along sort of waiting for hands to go up. Not see - oh Marika's hand's up. Go ahead Marika.

Marika Konings: Yes this is Marika. Just one clarification on the consensus call because I think we do note at the moment in the report on the actual recommendations where I think we say like, you know, these are preliminary recommendations and a formal consensus call will be conducted, you know, at the - when we have the final report and final recommendations.

I don't know if that means that you want to update that or do you just want to have a consensus call on people saying you - do you support the report as is? Is that what you're meaning with...?

Mikey O'Connor: Yes. I'm sort of meaning lower case consensus call.

Marika Konings: Okay good.

Mikey O'Connor: I like it when we can come in with an initial report where we have consensus as well, and it seems like we're getting pretty close to that. I'm not seeing any hands go up so then I'll sort of throw it open to sort of anything and everything about the report.

Well no, let me skip. Marika help me get through these. I think the first one we wanted to look at was a question that we embedded at Line 412, which is on Page 17.

So if you type 17 into the little box at the bottom and hit Carriage Return you'll get right there.

Marika Konings: Yes so this is Marika. I think I can explain what is there and so basically this is the section on Response Consistency. So looking through the comments that were submitted, there were several comments that observed that in a thick gTLD Registry could they take the labeling and display requirements would mean that for the - that TLD there would be consistency.

But it was also observed that that of course doesn't necessarily apply to other gTLDs. So you may still have a situation where the display and labeling is different between gTLD Registries.

So what I put here in brackets, and this was just what came to my mind as I was writing this, whether it would be appropriate for the Working Group to consider recommending that gTLD Registries would follow the same labeling and display requirements, you know, possibly following the model of the 2013 RAA.

So this was a question that I highlighted for the Working Group to further discuss or consider it as part of this section of the report.

Mikey O'Connor: Thanks Marika. And it's good that we've got a few folks from the Registries and Registrars here. I'm sort of looking to Don, Marc and Volker on this one.

So the situation is that in the RAA we've got response consistency language in the newest version that says, "WHOIS will be displayed in a consistent way across signatories to the newest version of the RAA."

However there isn't language like that at least right now in the Registry Agreements. And the question on the table is should we - and just by way of background remember that the driving thing behind this whole PDP was to finally be able to get to a place where Registrars during inter Registrar transfers could reliably figure out who the Registrant and the administrative contacts for names are.

So the question is should we sort of broaden our suggestions to include consistent WHOIS display across Registries as well? And I'm puzzling about this.

So this is a good solid rhetorical question and I'll now - I've now talked enough to build up a bit of a queue so we'll go to Steve and then Volker. Steve, go ahead.

Steve Metalitz: Thank you. This is Steve. I guess my question is whether this recommendation be - would be within scope for this group because first of all I'm taking what you say as true that there's no provision on this now in the Registry Agreements.

I don't know that we've actually - I don't know who - if anyone's looked at that. But assuming there isn't then this affects thick WHOIS. This affects Registries that are now thick as well as the Registries, I mean, it doesn't have as much impact on the Registries that are now thin, although I guess still they do display some WHOIS data.

So I'm just wondering if this is an issue that is involved with moving from a requirement of - moving to a requirement of thick for all Registries or whether this is a separate issue since it also affects Registries that are thick today so...

Mikey O'Connor: Steve I share your question. That was - and Marika and I were talking about this a little bit before the call. And I was wondering out loud whether this is in scope or not and don't know the answer to that just yet.

I think it's safe to say that this problem is less acute than the problems caused by the thin Registries, because all new gTLDs will have consistent response because there are requirements spelled out in the Applicant Guidebook.

And so what this will affect is a handful of existing thick Registries in the way in which they display data. And, you know, that's enough - that's a small enough group that it may not matter and I agree.

It may not be within scope. Our job is really more aimed at the structure than the content of the data, so I think that's a good question. Volker, go ahead.

Volker Greimann: Yes. I wanted to point out that the RAA provisions are based on the provisions that are in the new Registry Agreement. So the new Registries - new gTLD Registries will already be in a certain format.

And we should also not forget that the existing thick Registry providers, whichever they may be, thin Registry was - they are also providers of new Registry services.

So instead of building a new thick Registry system, they would be able to use that which they already have for the new gTLDs, which is standardized. So I don't think this will become a problem but we should put the recommendation out there, because as a Registrar I would most certainly want a standardized WHOIS for my various - when I want to initiate a transfer.

Mikey O'Connor: So Volker let me play back what I think you said just to make sure. I think that that aligns with what I'm thinking is that all new gTLDs will have consistent display requirements and the thin...

Volker Greimann: Yes that's correct.

Mikey O'Connor: The thin ones moving to thick will - would find it relatively easy to do that because they've built that system for the new gTLDs that they are planning to provide, but that we ought to say that for two reasons.

One, to ensure that the Registries moving from thin to thick actually do align with that, and then the scope question that Steve raises is still in there. What we would also be recommending is that existing thick Registries move to a consistent display format as well and that's the puzzle.

Volker Greimann: Particularly what I'm saying is that all thin Registries and thick Registries will have the same format register WHOIS once the new RAA is in place and once the new gTLDs are out.

So - well the existing thick Registries accepted now just the new TLDs and the Registrars will have a unified system of displaying the WHOIS. And I think it would be a step backwards if a thin Registry then moving to thick would take that away, which we have already implemented in the new RAA as a big step forward and move back to a situation where the WHOIS was not standardized.

Mikey O'Connor: I don't think that that happens. I think we have two categories of existing Registries. We have existing thin Registries that are moving to thick, and that I think we can certainly recommend that thin Registries moving to thick abide by the requirements of the new gTLD standard because they've already built that anyway.

I think the tricky one is the existing thick Registries - let's pick on Edmon and pick on Dot Asia. I'm not sure that Dot Asia aligns with the new standard for thick WHOIS Registry display.

That's the puzzler that I'm working on. Volker you've put your hand back up so I'll...

Volker Greimann: Yes. Yes I put my hand back up. And I realize that, A, I think it's out of scope to address the WHOIS output of existing Registries that are currently thick.

As far as I know they are pretty standardized in themselves so it's very easy to develop a script and parse them. However I don't think it's within the scope of our PDP to address their WHOIS, because they're not a thin Registry moving to a thick. They're already thick so...

Mikey O'Connor: That's right.

Volker Greimann: I do think that this is out of scope.

Marika Konings: Mikey can I...?

Volker Greimann: And the second point is we may have even among the new gTLD Registries, and I realize that just when you were speaking, some Registries that do not conform to that standard because they might be in a jurisdiction where they are required to hide certain functions of the WHOIS for certain details.

So even though the format that they output might be standardized, not all the fields that you might expect from a WHOIS today might be there.

Mikey O'Connor: Yes.

Marika Konings: Mikey can I comment on the scope question? This is Marika.

Mikey O'Connor: Sure. Sure.

Marika Konings: So this is Marika. I actually, I mean, and don't mean to give, you know, I don't have an authoritative or definitive answer but looking at the chart and looking at what the Working Group is planning to recommend, I don't think that will be out of scope because the charter clearly says that the Working Group is tasked to provide between these accounts of the policy recommendation regarding the use of thick WHOIS by all gTLD Registries, both existing and future.

So basically as I understand it if this Working Group is to recommend that thick WHOIS will become the standard, that will become the consensus policy that would apply to all Registries.

So if the Working Group would decide to write any specific requirements into the - that consensus policy, it would apply to all Registries. That is at least my understanding of how consensus policy would work.

I'm having to double check this in entirety but I think that's the scope under which the Working Group is currently operating. So it's recommending for existing and future but that would also include, you know, the existing thick Registries if - should there be any changes or consistency that would need to be applied.

And I think that was also the idea behind some of the questions in the charter for example where we looked at, you know, should there be exemptions or current exemptions may exist, what would need to happen with that?

So I think the idea was always looking at a uniform requirement across all gTLDs, existing and future, with regard to thick WHOIS. So from my perspective I think such a requirement for, you know, requiring consistent labeling and display shouldn't be considered out of scope as I understand the charter.

Mikey O'Connor: You know, this is an epic day. This may be the first time in my life that I'm hesitant to agree to something that Marika said. I think that there's a distinction to be made between what is essentially an architecture question.

Thin versus thick is an architecture or a model or a way to deliver WHOIS and the content of that WHOIS data and the format of it. And I'm willing to sort of go halfway.

How about this for a halfway? How about if we were to say that thin Registries moving to thick should abide by the new requirements - by the requirements in the Applicant Guidebook but omit reference to existing thick WHOIS Registries?

I'd be willing to go that far but I'm not sure that I want to touch labeling, format and content of existing thick Registries. And I sense the third rail with that. Marc, go ahead. You've got a lot to say about this I bet.

Marc Anderson: Hi Mikey. Good morning. I guess first I agree with Marika. I think, you know, clearly the charter intends this to apply to all thick Registries as, you know, she read the exact text, you know, regarding the use of thick WHOIS by all gTLD Registries, both existing and future.

You know, I think clearly this is intended to, you know, to be applied equally across all thick Registries. You know, I think also if we send out our recommendations that would apply only to existing thin Registries we're, you know, we're kind of going counter to exactly the purpose of this PDP.

The purpose of this PDP I think in a lot of ways is to eliminate inconsistencies across existing regulated TLDs. And, you know, we're, you know, what - your suggestion would actually go counter to that, where we'd have a recommendation that would apply only to existing thin and allow existing thick to be exempt from that.

You know, I don't think that would go over very well and I think that's sort of counter to the purpose of this PDP.

Mikey O'Connor: No. Yes and I'm sort of - and thanks Marc. I'm making this up as I go and I didn't mean quite to say that. I'm trying to sort of make the distinction between the structure of the WHOIS, which is thick which is consistent across all gTLDs and the content of the data in it.

But it's a pretty fine point for sure. I certainly understand the point that you're making. Let's keep talking and see where we get. Volker?

Volker Greimann: I feel that in our recommendations we should probably try to use wording that suggests that we think it might be a good idea that the existing thick

Registries also use a standardized format in accordance with the format that has been described in the new Registry Agreement and the new RAA.

But it does not say so directly. We - for example that we say something like that we recognize that such a simplified format is a good idea and we support the implementation of this format in Registries migrating from thin to thick, and thereby imply that we also think this is a good idea for existing gTLD Registries.

We should however shy away or stay away from discussing content of the WHOIS. I don't think that is too much into our scope and because there are already a couple of Registries out there.

I'm thinking of Dot Tel and Dot Cat that have specialized WHOIS outputs. And there will be a couple of new gTLD Registries based in Europe that I know will also have more private WHOIS.

So we shouldn't say which fields we request or see necessary as being in the WHOIS, but we should say that all the fields that are there should conform to a certain format. I think that's reasonable and that's the goal that we should shoot for.

Mikey O'Connor: I tell you what. Let's try to get to our intent and maybe let Marika take a stab at writing us some language this week. Oh Marika's got her hand up. Go ahead Marika.

Marika Konings: Yes this is Marika. First of all I wanted to echo what Marc was saying that basically I think it's counter to consensus policies that there would be requirements that would not apply to all under a consensus policy so I think that's the first point.

I think the second is point as well what Volker said if they can be going to because I don't think we're talking here about that we're defining what should

be in the Whois it's really more about the display and the format to really make sure that there's consistency.

And my third suggestion was I think, you know, following on from Volker's point the idea could be that, you know, if the working group doesn't feel sure yet where it wants to go to actually put this question out as part of one of the questions as part of the initial report saying well the working group is leaning towards recommending or requiring a consistent display and format for all gTLD registries but would like to, you know, obtain further input from existing registries on whether this would be seen as a, you know, a major burden or a major hurdle or very costly to trigger some further input on - in this question to really see if it indeed is a big issue or whether it's something where most agree that it actually would be a good idea if that would be required as part of the final recommendations.

So let's drive down this path for just a minute. In the language in the RAA and in the new gTLD the guidebook does the language - I'll bet the language focuses on format of the data, not the fields that are displayed.

So in other words it says if you have a field displayed you should follow it with a colon and two spaces et cetera, et cetera.

And if the language of the format doesn't touch on the content then I'm fine. Then I think that it's in scope for us to recommend.

I think the only thing that I want to stay away from is - and Volker brings up a good example, is specifying which fields must be displayed because then I think we trend into issues like .tell and .cat and so on and so forth. How about that? So we to sort of follow down Volker's tracks we make the format part part of our recommendation?

Marika got there first and then Steve. Go ahead Marika.

Marika Konings: This is Marika. I'm not an expert on the new gTLD agreements but I do think that the specification that deals with Whois actually specifies which fields need to be provided at a minimum by the gTLD registry.

I think also specifies on the format but I think it does online which fields at a minimum need to be provided. I can double check that and there was another point I wanted to make about - oh the other point I wanted to make I think we do talk somewhere in the report about in the cases where exemptions are obtained. And I don't exactly - remember exactly where we talk about this.

But I think the idea is that if there would be registries or registrars that would obtain exemptions of course that would trump the other requirements that may be in place or at least that's my understanding of how such a process would work.

So that, you know, we wouldn't need to accommodate in our recommendation any exemption or exception that may occur.

And I think it's - I need to look up where we actually spoke about it but I think I inserted the paragraph somewhere because there was indeed this question on how to deal with existing exemptions or different approaches as, you know, .tell and .cat have.

And I think we inserted some language in there that would deal that basically addresses that point saying that, you know, would need to be dealt with on a case by case basis.

But of course is such an exemption is granted that, you know, it takes over - it takes precedent over the basic requirements.

Mikey O'Connor: Okay. Steve?

Steve Metalitz: Yes this is Steve. I just wanted to say that I think my concern about this wasn't based on whether we were - we specified the content versus specifying the format.

And I defer to those who are more familiar with the draft RAA and draft registry, you know, new registry agreement provisions as to whether that, you know, which it is in those agreements.

My concern was just that we would be recommending a change in what is required for existing thick Whois registries when our mandate was to determine whether all registries should be thick.

So we have people on this working group who represent existing thick registries. I don't think we have any of them on the call right now but I'm happy if they are happy with this and they don't think this is really significant issue then that's one thing.

If we're putting mandates or recommending mandates on people who might reasonably have suspected that the scope of this working group is a little more limited then I have some concern.

But maybe the way to - maybe, you know, I think if we could consult with Carolyn and Don and some of the other members of our group who are in that position maybe that would help clarify this.

Mikey O'Connor: I'm liking where we're getting. So let's - let me see if I can scoop together all of the ideas. I think one thing we probably want to do is draft something and I'll throw the ball to Marika to do that.

We'll run it by the group. We'll also I think it's a good idea to talk to the folks in existing thick registries and see what their reaction is.

So a good one to put on our list of outstanding questions for the community when we go out for public comment and talk to folks in Durban certainly from the standpoint of the IRTP working group that was looking for this the more consistency the better across all registries.

And I certainly don't want to get us in a situation where we are not writing consensus policy that applies to all registries. That would be a bad spot.

So Marika can I throw the pen your way on this one and let you do some of that research and then draft a preliminary version of that conclusion for next week's call and maybe circulate that to the list as well?

I'm hoping I can do that because if I had to write this one I'd be in over my head I think. And...

Marika Konings: I've set the ball very high but I'll give it a try.

Mikey O'Connor: Thanks. I think that this is a good one. We need to get this one right. And so let's I, you know, I don't think it has to be a big long recommendation. I think it just has to be framed correctly because we certainly don't want in the situation where we're not evenhanded in the treatment of all gTLDs in our results.

So that idea of mine was a very bad idea and I'm withdrawing that.

Good. Good discussion. Anything else on this one? I think we've got some more sprinkled through the text don't we Marika? I thought I saw one...

Marika Konings: This is Marika. There - I think most of the comments we actually recovered last week but there was one that I found on Page 38.

Mikey O'Connor: Thirty-eight.

Marika Konings: And I think that deals with one of the conclusions on the Registrar Part 43 who's requirements align 3083 and 84 we have - there's some language in brackets.

It currently reads as a result the working group did not consider this issue in further detail and then in brackets and defers to the conclusions arrived at through those negotiations.

Mikey O'Connor: That's right. Yes I think what's happening here is that when we started drafting those conclusions weren't complete and they're still out for comment. Steve go ahead.

Steve Metalitz: Yes this is Steve. I would - I don't think we need that - this phrase. I think we explained why we're not getting into it.

And in fact this agreement is not just one negotiated between ICANN and the registrars. The rest of the community has some input to it so I would just drop that phrase.

Mikey O'Connor: Yes. I don't feel terribly strongly. I think I'm the one that added that. And so I would I think I was doing a mostly just to clarify. But I think your point is well taken. So let's strike that one unless anybody's got a strong objection.

Okay now the subsequent one, take a look at the subsequent one Steve 1387 because we've also got the differs language in there in our conclusion.

Should we change that as well?

Steve Metalitz: I think yes all we need to say is that, you know, we defer this until the outcome is known until we know...

Mikey O'Connor: Right.

Steve Metalitz: ...what's in the new RAA.

Mikey O'Connor: Right. All right so we'll leave that alone. Okay any other ones Marika that we need to touch on?

Marika Konings: This is Marika. And I didn't find any other ones. There were still some (unintelligible) left in there but I think they were addressed by the changes that you made following last week's call.

Mikey O'Connor: Okay.

Marika Konings: And so otherwise I don't think there, you know, any outstanding questions at least from our side. But I think one of the questions we would probably need to put to the group is, you know, how much more time people need to review the whole report or whether everyone already had a chance and they're indeed happy with this.

We may want to set a deadline for, you know, any big type comments. I mean small edits are easy to make but we may want to get to a point where we say we don't have any major issues remaining anymore on the table because there may be other ones, you know, we didn't address in our comments.

Mikey O'Connor: Yes. I think that this is the point where the folks on the call say we're comfortable with what we see in front of us, sort of speak. I, you know, I'm tempted to set a deadline of next week for any big comments.

You know, people have certainly had ample opportunity now for the last almost month. This report has been moving with minor - not minor but with a small number of conversations. This report has been pretty stable.

Steve is that a new hand or an old one?

Steve Metalitz: Yes it is. I - first of all I agree with you that what we should ask people to - don't do a final, not final but give an answer by next week as to whether they're okay with this going forward as our draft.

I did want to raise one other point that really just I recognize that this language has been on the table for several weeks and I hadn't really focused on it as well as I should have.

But it's on - and I also hesitate because I think Don was the author of it. I know he's not able to be on the call but if you look on Page 43 at lines 1577 to 1578 and this is in our list of items that we recognize are not in our remit but our suggestions for the overall review of Whois registry registration data directory system model.

And there's a reference there to do Safe Harbor laws really provide data protection assurances I mean which is a totally legitimate question.

But I'm just wondering why, what role ICANN actually has to play in that? I mean briefly I think this is a reference to the US EU Safe Harbor system where the US and the EU negotiated something.

The EU considers the US not to have an adequate system for protecting personal data. They negotiated something where companies could despite the perceived deficiencies in the US legal framework companies could make certain representations and agree to certain types of enforcement.

And they would be treated, the EU said we'll treat them as if the US law were adequate in that situation. It's been in place for quite a few years.

It's also been criticized quite a bit but I just had two points about this. One is if the US - if the two - if I thought what we were about here was figuring out whether there are problems with compliance with local laws and how to

handle that if there's a transition from thin to thick it didn't make any difference.

I think this wonders a bit far afield from this because this is an international agreement between two governments or between one government and a super national authority in the case of the EU that - and I just don't know why ICANN - what role ICANN would have getting into that and saying well we think those two governments do - we're not going to accept that and we think that to protect privacy we need to more than just provide it in that US EU framework. That's one question.

Number two I went and looked at, you know, the companies that have taken advantage of this or sought the Safe Harbor it's a publicly available list.

And I didn't see, you know, Public Interest Registry or affiliates, or Neustar on it. So the three largest registries don't even engage in the Safe Harbor agreement.

So I'm just not clear why it's an important question as far as privacy policy generally but I just didn't see why we would be recommending that ICANN conduct some type of review about whether Safe Harbor laws provide data protection, really provide data protection assurances.

It just seemed like two or three steps beyond our scope there. So I would suggest that we drop that but I recognize that - I mean I'll be glad to pursue this separately with Don and see if perhaps I'm misreading this misunderstanding what he intended.

I just wanted to (unintelligible).

((Crosstalk))

Mikey O'Connor: Thanks Steve. I'm sort of reading back, you know, this is a section where the header says the working group notes the - that succeeds our scope but we go ahead and suggest that as part of the development of the registration data directory system model currently in process.

So I think this is referring to sort of next generation...

Steve Metalitz: Yes. I think that's right.

Mikey O'Connor: ...so this is right at the get go this whole section is outside our scope.

So yes if you and Don could sort of take a hard look at that...

Steve Metalitz: I'll follow-up with them.

Mikey O'Connor: Yes I think that would be useful. That would be - it's true trying to - that's a very old agreement. You know, that's an agreement that was in place before I got involved with ICANN.

So I would assume that the wording is, you know, take account of that but I can't imagine that we would try and unwind it.

So yes let's leave the ball in your court on that one and then take whatever the two of you come up with as something that we can insert into the draft maybe in time for next week and then we can touch on that...

Steve Metalitz: Yes we'll try to do that.

Mikey O'Connor: Yes okay. Marc go ahead.

Marc Anderson: Hey in answer to Steve's comment on this one I - I'm trying to remember the conversation this, you know, I fear I'm not going to do it justice.

I think it, you know, it was Don that brought this up but I think what he was going for here is, you know, there are concerns around the transfer of, you know, PII from out from let's just say in the scenario where you have an EU based registrar and who's subject to EU privacy and personal data protection laws.

You know, if transferring data outside of the EU to say the United States if the, you know, if the entity in the United States with EU Safe Harbor certified if that provides any, you know, any additional assurances or, you know, helps provide protection to the EU based registrar, you know, I think sorry, I'm struggling I think, you know. I think, you know, that Don might do a better job with this.

But, you know, I think it had to do with, you know, with that transfer of, you know, PII information from the EU to that United States.

And that if the entity in the United States was Safe Harbor certified does that help alleviate some concerns there? I guess that's my recollection of it.

Mikey O'Connor: Thanks Marc. I'm going to - I think I'm going to leave the ball to Steve and Don to puzzle this out. And if you guys could get something to the list PDQ that would be nice so we...

Steve Metalitz: Okay. I'll follow...

Mikey O'Connor: ...give people a little time to chew on it.

I'm pretty relaxed about this because this whole section is an out of scope suggestion that we make to people who are doing a different project.

And so I don't think this is a battle to the death kind of issue either way because we're basically just encouraging a different group to take a look at something.

Steve Metalitz: I agree with that. I'm not proposing a battle to the death I'm just...

Mikey O'Connor: Okay.

Steve Metalitz: ...I'll raise it with Don and we'll figure it out.

Mikey O'Connor: Okay thanks. But good one, anything else? We've got about ten minutes left and nothing else on the agenda. So, you know, there is time to bring up a few more things.

I think the key thing is if there are showstoppers now's the time because, you know, we have seen a lot of this document and, you know, clearly if there are editorial problems we'll take those in pretty much right up to the time we submit them, submit the document to ICANN for the meeting.

But, you know, if people have deep discomfort and oppose where this is going I think this is getting down to sort of the time to voice it or else because we have been working on this a bit and it's been pretty stable. And so I'm inclined to say that where we're at is a candidate for consensus.

We've got a couple of things to work on. Steve's got one and Marika's got another. But by and large this is the initial report that we'll submit to Durban and that we've got consensus around the language that's in it.

And that's really true then I think we all ought to step back and shout hooray and say great job and all that stuff. But I do want to check and see.

Volker is saying hooray in the chat. Let's go with hooray. This is great.

Let's give it one more minute and then if there is nothing else I think we'll wrap the call up early and take those last two things and run them through the list.

And then Marika if you can get a comment, you know, get a notification out to the list that says look we're coming down to a call next week where we're going to look for consensus on this draft, lowercase consensus not the formal consensus on the final report and that if people have any issues we're just like the little rant that I did in the call here this is the week to bring them up because, you know, we're there.

Okay I've blathered for another minute. I'm going to call it a day. Thanks folks. I think we're really close. Thanks for all the help and I'll sign off at this point. (Julia) you can end our recording and again thanks to all.

Man: Thanks Mikey.

Woman: Thanks bye.

END