

**ICANN Transcription
Privacy and Proxy Services Accreditation Issues PDP WG
Tuesday 04 March 2014 at 1500 UTC**

Note: The following is the output of transcribing from an audio recording of Privacy and Proxy Services Accreditation Issues PDP WG call on the Tuesday 04 March 2014 at 15:00 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-ppsa-20140304-en.mp3>

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

Attendees:

Luc Seufer - RrSG
Volker Greimann - RrSG
Graeme Bunton – RrSG
Tim Ruiz – RrSG
Sarah Wyld – RrSG
David Heasley - IPC
James Bladel - RrSG
Steve Metalitz - IPC
Kathy Kleiman – RySGgr
Justin Macy - BC
Darcy Southwell - RrSG
Alex Deacon - IPC
Todd Williams – IPC
Don Blumenthal - RySG
Libby Baney - BC
Phil Marano – IPC
Jim Bikoff – IPC
Griffin Barnett - IPC
Roy Balleste – NCUC
Amr Elsadr - NCUC
Kiran Malancharuvil – IPC
David Cake - NCSG
Valeriya Sherman – IPC
Marie-Laure Lemineur – NPOC
John Horton – BC
Stephanie Perrin – NCSG
Michele Neylon – RrSG
Jennifer Standiford – RrSG
Carlton Samuels – ALAC
Maria Farrell – NCUC

Apologies:

Paul McGrady
Tobias Sattler - RrSG
Marika Konings – staff
Joe Catapano - staff

ICANN staff:

Mary Wong
Margie Milam
Amy Bivins
Mike Zupke
Terri Agnew
Nathalie Peregrine

Coordinator: Please go ahead, this afternoon's conference call is now being recorded.

Nathalie Peregrine: Thank you ever so much, (Tim). Good morning, good afternoon, good evening everybody. This is the PPSAI Working Group call on the 4th of March, 2014.

On the call today we have Volker Greimann, Val Sherman, Graeme Bunton, James Bladel, Libby Baney, Sarah Wyld, Todd Williams, Justin Macey, John Horton, Don Blumenthal, Darcy Southwell, Griffin Barnett, Stephanie - sorry, Stephanie Perrin, Luc Seufer, Kathy Kleiman, Alex Deacon, Steve Metalitz, Tim Ruiz and Roy Balleste.

We have apologies from Paul McGrady, Joe Catapano and Marika Konings.

From staff we have Mary Wong, Amy Bivens, Terri Agnew and myself, Nathalie Peregrine. I'd like to remind you all to please state your names before speaking for transcription purposes. Thank you very much and over to you, Don.

Don Blumenthal: Thanks, Nathalie. We've got a lot to cover today. First, I really appreciate all the traffic on the list the last couple days. I haven't even come close to catching up to what's been going on this morning but it's been really useful.

Like I said we got a lot to cover so why don't we jump into the presentations?
Volker, you want to go first?

Volker Greimann: Just give me one second to organize my thoughts.

Don Blumenthal: Okay. You know, just - we're doing this for two reasons, just I think to - just to give an idea the practical side of some of the things we're talking about. But I think it's also going to be important just in some of our decisions down the line on, for example, whether we'll have different accreditation processes for privacy versus proxy services.

So, you know, a few different reasons for our madness at times. Let me know or just jump in.

Volker Greimann: I'm ready.

Don Blumenthal: Okay.

Volker Greimann: Okay. I'm giving a brief overview of registrar-affiliated Whois privacy service on the - based on the example of our own service. Next slide please. I've kept this as generic as possible just as an overview of how our service might look like but other services might also look like.

On the Name field we usually put on behalf of domain name XYZed in TLD XYZed and then the contact handle as in owner admin/tech. CO the privacy proxy service name, address the privacy proxy service. In thing registries we provide an encoded string as email - left off the "at" for the email address and the domainname@privacyservice.tld. And thick registries it's owner@domainname@privacyservice.tld.

We did this as an added service for thin registry registrations to prevent spam because we can make the encoded string only valid for a certain amount of time. So, for example, if you do a Whois inquiry for a domain name today that

email address that you get there will be valid for about two weeks. And after that it will stop working. This is to prevent domain name harvester - Whois harvesters to gather domain names of our customers and use them over and over again for spamming.

Next slide please. Okay. The structure is, in our case, that the privacy service is a fully owned subsidiary of the registrar so it's not the registrar itself providing the service as a company. It's a company dedicated to providing registry proxy services.

It's an offshore company not based in Germany. This was done for multiple reasons one of which is German liability laws and the other one is that we also needed a dotAsia trustee at the same time to provide the CD contact so we just killed two flies with one stone and did an offshore company for that.

We have, on staff, two part time abuse handlers that also handle all the non-proxy service abuse cases that the registrar faces so the staff is shared. And I personally supervise that. And it's a paid service so every registrant that wants to have the service pays for it although there is resellers of ours that just bulk order and offer it for all their registrations.

There's no direct customer relationship, as in payment between the registrant and the service provider. Everything is handled exclusively through the distribution channel as in registrars that use our backend registrar backend. This is - first of all the registrars that belong to the key systems in the (unintelligible) registrars accepting moniker, they have their own historical privacy service.

And of course all resellers that are on our platform and also unaffiliated registrars that just use our technical backend services for provision of registrar services.

Statistics of abuse cases that we received, you can see it's very, very low amount. Most other received communications are purchase inquiries for domain names. That's actually the majority of requests that we receive, either offers for domain names that somebody has to offer to the registrants and others - I want to buy this domain name.

Actual abuse complaints that we receive per email usually amount to three to four per week. Extreme weeks have double that. Average number of abuse complaints that we receive by postal mail, one or two; mostly one, sometimes two, very few times that we have received three in a month.

And we receive also spam which has been reduced through the encoding that I talked about earlier and the pieces of spam that we receive is four to eight so about double the amount of complaints that we receive is actually spam.

We have terms against abuse of use of the service. In this list you can see what we define as abuse of use. This is just best off - there is more in our terms but these are the salient points. First and most important is the use of inaccurate underlying Whois details, the failure to provide payment, breach of privacy service agreement or registration agreement with the registrar.

Illegal or immoral objection of the use of the domain name, used to transmit spam, viruses, it's mainly the usual that you have. And the last one is a bit special for us, not all the providers have it, it's the use for commercial purposes.

It's the choice that we have done because we believe that once you provide actually goods and services under your domain name that your name should be visible in the Whois as well but that's, like I said, personal choice of the service that we choose to provide.

The enforcement is a different level. We do not review the use of the domain names without any complaints. When we receive a complaint we will review that complaint. We'll then review the domain name based on what the complaint that we have and take further actions as in the later slides that we'll go into later.

We do not validate the Whois level on the service level because the validation or verification occurs - or does not occur on the registrar level or the registrar backend level.

What I mean by that is as our technical backend is providing services for registrars that are still under the 2009 agreement as well as for registrars that are providing services under the 2013 agreement.

The verification and validation requirements are different and therefore validation occurs or does not occur depending on which RA the registrar is under. But in any case the privacy service does not provide it as the registrar is expected to provide it if he has to.

All complaints that we received are usually responded to and reviewed within 84 business - 84 hours on business days. And confirmable complaints will receive a result in warning and/or termination of service.

Suspension or termination of service usually means the disclosure of the registrant information in the Whois and removal of the privacy service data from the Whois. But we have a tiered response that I will go into now.

We differentiate not just because relay and reveal but also - we also added the disclosure as a counter measure because we think that's a difference between a reveal and a disclosure action which I'll discuss later.

The relay of course is the forwarding of the information that we received to the registrant. Email information sent to an encoded address is automatically

forwarded to the registrant as in the registrant - we do not even see that; it goes through our server directly to the registrant and provides - we therefore provide a way for the complainant or any other communication to reach the registrant directly.

Email addresses - or email communications that are addressed to our service addresses, which are info@ourprovider and abuse@ourprovider, are forwarded to the registrant after review. Spam is automatically deleted, commercial messages are automatically deleted and non-complaint messages are also deleted.

We do not provide any forwarding service or - we do not want to spam our customers so when they have privacy activated and somebody wants to communicate with them we tell them to use the encoded email address.

If the mail was forwarded to the beneficial registrant we usually inform the complainant that we have done so. If mail is deleted because of the above reasons we do not inform the sender that this has been undertaken. He can expect - by sending such messages he can expect that mail will be deleted as this is included in our service.

Postal mail is, by our terms, not forwarded. The sender is informed by email to send them again by email because we are not providing an mail forwarding service or a scanning service so we explicitly point out in our service terms and on our Website that we do not forward postal mail. But we will take it into account when receiving abuse complaints. And measures will be taken if the abuse complaint is substantiated.

Reveal, which in our termination equals termination of service. We either have the immediate or the deferred reveal. The immediate reveal occurs when verifiable, obvious and severe violation of our terms or of applicable law is identifiable by our staff.

In case of UDRP or URS action that is notified to us by the provider or the registrar. Refusal of the registrant to change content upon request of the service provider these will all result in immediate reveal of the Whois information in the public Whois and termination of the service.

Deferred reveal will happen in the case of non-obvious but sufficiently substantiated complaints as in we cannot immediately determine if the complaint has merit but - or if it - if we can determine if it is has merit that is severe enough to justify a termination of the service.

Usually it then only occurs when the registrant refuses to cooperate or to respond to our inquiries, i.e. refuses to cooperate with us. In those cases the registrant is given a reasonable time to respond and if no response is received we terminate the service as a violation of our terms.

The other option is the disclosure and we usually go that route. And that is for non-urgent but non-obvious but still severe potential violations. And most of the cases where the registrant has no objection to disclosing that or if we believe that the public disclosure would be unjustified.

This would result in the disclosure of the data only to the complainant. The public Whois privacy remains intact. And the registrant is informed in advance given the opportunity to avert disclosure.

One additional topic that I just tacked on that does not have anything to do with our own privacy service is the unaffiliated services that we see on our registrar accreditation. These can be services operated by resellers or registrars that use our backend, by resellers of resellers, resellers of resellers of resellers and so on.

Then we have services operated by unknown third parties and services operated by registrars that are not on our backend, for example, for domain names that have been transferred from one registrar that provided a Whois

privacy service to us when the data was imported with that privacy service data intact. And we have some remaining domain names that, for example, still use domain by proxy or other privacy services.

Any questions? I'm willing to answer either after the presentation or on the mailing list. I'm not sure how you want to proceed, Don. Or do you want to hear James's presentation first or should we do a question and answer session now?

Don Blumenthal: Why don't we move on because I suspect there might be some questions that will - might come out of a compare and contrast if the extent to your approaches are different. But right in between...

((Crosstalk))

Don Blumenthal: Go ahead.

Volker Greimann: I would just like to ask Steve and everybody else who had questions regarding Whois privacy services that did not directly relate to our service and might have skipped those but I'm still willing to answer those so if you put them in the Chat or just ask them later on I'm very happy to answer those. I did not want to ignore them, I just thought the presentation would be more cohesive if I did it the way I thought I did it - and, yeah, answered those questions later.

Don Blumenthal: Okay no very helpful. Really. I've got a whole list of my own questions. Let's just real quickly, though, Graeme had a couple things he wanted to talk about that might fit in here well also then we'll go to James.

Graeme Bunton: Sure. I don't have slides for it but it's worth mentioning a couple things about our model which is primarily wholesale so most of our customers aren't end users, they're hosting companies, etcetera, that are using our privacy service.

Our service is a whole owned subsidiary of Tucows. It is registered in Canada. And the primary difference is going to be that, for our privacy service, the relationship is between the service and the registrant, not between the service and our reseller which would normally have the relationship with the registrant.

So when we're dealing with a complaint or an issue we'll often include the reseller as a courtesy so that they can be aware of what's going on as they would typically have the relationship with the end user. But that formal relationship is between our service and the end user.

We sometimes charge for the service to our resellers and it's up to them whether they choose to offer it as a paid service or not to the end user so that they have flexibility there.

One of the other good bits that distinguish the wholesale model I really think that important piece is that the relationship is between our privacy service and the registrant, not between the reseller and the privacy service.

I'm happy to answer more questions about the wholesale model differs too but in comparison it to Volker's a lot of that is very similar. It's just that there's sort of a third party that's interested but doesn't have a formal relationship in this case.

Don Blumenthal: Okay. It's hard to tell without slides, is that it?

Graeme Bunton: Yeah, yeah, that's...

Don Blumenthal: Okay.

Graeme Bunton: ...about all I got at the moment.

Don Blumenthal: Okay, James, if you're ready - well I see the slides; I guess you're ready to tee up.

James Bladel: Yeah, I'm all set. Thanks, Don. James speaking for the record. And maybe if we can make sure everybody has zoom control for these slides that will probably help make this presentation a little bit cleaner.

Less of a show and tell that Volker provided and more of a walk through with some screen shots to demonstrate how our privacy service, Domains By Proxy, is presented to registrant customers and what it looks like in the Whois and how customers would interface with that system so the presentation is mostly screen shots.

The first image that I've captured here is just a shot of what would be presented - what we call the domain purchase tab which is the sequence of questions and clicks that have to be accomplished in order to add a domain name to a card and pay for it and then complete the registration process.

And you can see that Domains By Proxy, which is here presented as a privacy service or protect my personal information is one of the items along with hosting, Website builders and email that's offered to the customer as they proceed through the registration process.

It's not shown in this picture but at the time of registration and payment the customer would be required to accept not only our standard domain name registration agreement but also accept the terms and conditions associated with our privacy service, which is Domains By Proxy.

If we scroll down to the next page here's an example of what a privacy service using Domains By Proxy would - how it would appear in the public Whois. I happen to know the registrant of this particular domain name so I felt it was fairly safe to include this in the public record without giving anything away.

But as you can see just a couple of points here, it's a little different than the structure that Volker had presented. If you see registrant name, it says Registration Private. Registrant Organization is, in fact Domains By Proxy, LLC, which is a separate but affiliated entity to Go Daddy, the registrar. It lists our address there on Northside Boulevard and the contact information in Arizona.

The key thing here is that at no point does the registrant or any information pertaining to the registrant appear in the public Whois. That makes this, I believe, by our working definitions, a proxy service rather than a privacy service, however we use that term somewhat interchangeably internally.

And I would point out that it behaves very much the same way by Volker's service, as well as Graeme's, so I don't know that there are any material differences other than the way that the contact information is presented in Whois.

And of course we would like the discretion to modify this in the future without changing our designation from one to the other or understanding where - or having to, you know, jump over any arbitrary boundaries. So it's important I think to - that we make a case that they behave differently if we're going to make different standards but in this case I can tell you that they do not behave any differently.

So anyway moving on to the next slide here is the homepage for Domains By Proxy which a customer, upon registration, of a domain name would be given access to this system. Again, a separate control panel on a separate Website aside from the registrar's Website.

A couple things to point out here, in addition to your basic login function, there are also three items here, file a claim, consumer concerns and law enforcement. These buttons I did not capture all the screenshots involved.

But these buttons will take you either to a form or to email address with further instructions on how to submit different types of complaints or claims against a domain name that is sponsored by Domains By Proxy.

For example, law enforcement has a specific email address with some instructions on what sort of credentials should be provided as part of a law enforcement complaint.

Consumer concerns and claims are a little different. Claims would be - and I'd have to go back and just double check my notes here but one would be if you had a complaint against the registrant or the customer of a Domains By Proxy domain name because of a service that they were offering through their domain name and you needed to contact them that way.

Another one would be if it was some sort of an infringing service. And I don't know if I captured the different buttons there. But it is explained through the instructions on each of those forms.

Scrolling down to - about the middle of the page on the right hand column, you know, it lays out the benefits in a bulleted list here of why someone would want to use a proxy service to have a private registration. But at the bottom it does note that, you know, we do not look very kindly upon anyone who's abusing our service. We have zero tolerance policy for spam, legal violations or, you know, other content or use type issues.

So let's scroll down then to the next page and I will show you a login screen. This is, again, I'm not too shy about letting everybody know who's behind these particular domain names.

But as you can see this is a filtered control panel showing a subset of domain names that are in this account which would allow a number of things. First of all it indicates which registrar is sponsoring the domain name. At this point in

time all Domains By Proxy domain names are either sponsored through Go Daddy or Wild West Domains or one of our affiliated registrars.

But it is possible, like Volker and like Graeme's services, that we would expand that and make that available to other registrars at some point in the future. Certainly something that's - on avenue that might be open to us.

The little buttons over here to the right would allow the registrant to edit some of the settings associated with the Domains By Proxy setting. So for example, let me scroll down to the next one you can see, you can edit email preferences.

You can select whether or not email would be forwarded in all cases or whether it would be first allow our spam forwarding - our spam filters to be applied before forwarding. Or you could request that no email is forwarded. And if you notice back on the Whois slide there is a specific email address associated with each Domains By Proxy domain name.

So just scrolling down to the bottom here I wanted to run through a quick number of statistics. We have over 10 million domain names managed by Domains By Proxy which would make it probably a top 10 or a top 20 registrar in its own right if it were structured as such.

Approximately 4.5 million customers, or higher than that, I believe since some of the data I was working with is a little stale, about 60% of those accounts have put some indication in the field that they are doing so on behalf of a company or an organization so we would not necessarily consider them strictly individual or personal users. They could be using the service on behalf of an organization.

We have, as you might imagine, a very large - actually two separate sets of abuse teams; one for abuse of our network systems and one for abuse of domain names. Both of those teams tie into - some of their standard

operating procedures will tie into Domains By Proxy if they are involved in any sort of abuse reports or security incidents.

And in this case the rate of abuse is fairly low. I believe the last number I saw was .11% of domains under management are suspended for abuse. And just as an aside, the 2009 RAA allowed registrars to either escrow underlying privacy data as part of their registrar data escrow deposits or to notify those affected registrants that their data was not being backed up.

We chose to go ahead and keep, you know, go ahead and submit the underlying data as part of our registrar data escrow deposits under the 2009 RAA.

Under the 2013 RAA that is no longer an option; that is now the required practice for registrars under that RAA. So it is something to note that, you know, when we talk about verification, for example, that we have applied a similar and I think a higher standard than what was required under the 2009 RAA which I believe has set us up very well to meet those requirements under the new agreement.

So that was it. Again, more of a walk through than high level tour. But happy to address any questions.

Don Blumenthal: Okay. Appreciate it, James. I'm going to round it out very quickly here in the interest of trying to throw out as many different business models as we can for people to think about. I was working on an abuse complaint that PIR got last week. Came across something I had never seen before.

The - and it was traced to a registrar that, I'm going to say right up front, is well known, has a good reputation so eliminate that issue. What they had is a privacy service in that all of the contact information links to the company.

However, the registrant isn't listed. What's listed is a code, a code that's assigned by the registrar so that in practice it looks like a proxy service but the registrant has beneficial control under - under ICANN rules it would be considered a privacy service, not a proxy service.

So for what it's worth, as we go forward and looking at the different models I figured it would toss that in. I've tried to get in touch with somebody at the company just to ask a few more questions about how that works but we've been playing email tag.

So with that I'll open it to questions. Steve.

Steve Metalitz: Yes, thank you. This is Steve Metalitz. Trying to get back to my screen here. I wanted to ask - first of all thank you for very much for the presentations (unintelligible) very useful, informative and I think there's a lot we can draw on as we develop accreditation standards from these - the practices of these existing and successful services.

I wanted to focus just for a second on the relationship between the registrar and the customer. I know early on in Volker's slides there was something about that there's no relationship with the customer but I wasn't - I didn't - I wasn't quite clear on which relationship he was talking about.

And I guess to - gave it a practical...

Tim Ruiz: This is Tim. Sorry to interrupt but based on the Chat I don't think anyone can really hear Steve. Just barely.

Steve Metalitz: Okay sorry. Is this better? Can people here me?

((Crosstalk))

Don Blumenthal: Yes.

Steve Metalitz: Okay. I'm sorry. Well I just wanted to thank the presenters. I think these were very useful presentations and they give us a lot to work with as we are starting to talk about accreditation standards.

My question was about the relationship between these - the registrars in these situations and the ultimate customers. And in particular on an issue that we've had a lot of discussion back and forth about in the thread does the - does the registrar - I mean, let's just take this under the 2013 RAA registrations.

Does the registrar validate the contact information of the registrant, or excuse me, of the ultimate customer? Or does the service do that or just how - or do neither of them do that?

Volker Greimann: If I may cut in? Under the 2009 RAA nobody does; that's clear. Under the 2013 RAA, in my case, the registrar validates. And the way it's structured for us is that the service provision is done with access to the registrar database and the registrar database holds the underlying registrant information.

So, for example, when I receive a complaint for the Whois privacy service, and from time to time I look at these, I look into our database and see the - see that the - see the original data of the registrant, the data that is also escrowed with Iron Mountain, for example.

And I see a small flag that tells me that this domain name is under the privacy service and that I shouldn't give out the privacy data to anyone just who asks but that this is protected data.

But in the database we have the real data, not the privacy service provider data. That is just pushed in either when we give that information to the registry, when we have a thick registry or before it gets published in the

Whois in case of a thin registry so there's the layer between our database and the database that is actually just leads to the display.

Therefore what we as a registrar validate always the data of the registrant. That is true for all privacy services that we provide. Privacy services that we don't provide that, for example, are provided by a registrant, we just verify the data of the privacy service because we do not have the underlying data.

So basically what is provided to us as the registrar is the data that we have in our database and that is the basis for our display in the Whois. With regard to your other question with the relationship between the privacy service and the registrant, we are very clear that the registrant has direct contractual obligation to accept the terms and conditions of the privacy service provider when making the registration agreement with the registrar or reseller as the case may be.

So the registrar or reseller is obliged to pass on these terms as part of his registration terms when offering the privacy service to the customer and the customer has to agree to those. That is to say that this service is always mediated through a third party, be it a registrar or reseller. There is never - while the contractual relationship is direct, there is no direct contact unless there is an abuse case.

Then we contact the registrant directly and we inform the reseller, just like Graeme said, but we do not work through those because we assume that there is a direct contractual relationship. But, for example, we do not accept third party registrations on our privacy service.

We receive inquiries regularly where someone asks us - we have our domain names with Go Daddy, but we want to use your privacy service, can we do that? And we tell them very clearly, no, you can only do that when you have a registration agreement with a registrar that is connected to our platform and these are these and these and these registrars.

So you have to go through one of the registrars and that is the only way we can provide the service because the way - of the way it's structured and it's integrated into our platform.

((Crosstalk))

Graeme Bunton: ...response briefly in that our service operates must like Volker just described; the open SRS does the registrant verification and so that's done on the registrar end and the contact privacy does not - yeah, there you go.

Don Blumenthal: Thanks.

James Bladel: Just a note that...

Don Blumenthal: James, yeah.

James Bladel: ...as a retail registrar I think we have some advantages that are not enjoyed by Graeme and Volker's services. But in general I would say that if the information is verified or is treated as legacy verified, which is a different subject all together and that's in the 2013 RAA that because our data is - we only have one registrar that's involved or affiliated registrars that are involved that we would accept the verification status of the registrar.

And then if the verification status were to change or the legacy status were to change that then we would verify that. I would point out, however, that as a proxy service we, in some regards, are - we have verified our own service on one occasion and then we will reuse that verification status for all of the new registrations going forward until the information - or unless the information has changed.

Steve Metalitz: I didn't...

Don Blumenthal: Thanks.

Steve Metalitz: This is Steve. I just - so obviously you verify the Domains By Proxy and their contact information...

James Bladel: Yes.

Steve Metalitz: ...but does Go Daddy verify the information about the underlying customer?

James Bladel: We inherit that from Go Daddy. So if it's required to be verified then we would. And if it is not then we would not. If it was already present in the system, for example, pre-January 1, 2014, then that would be passed through. However, if that were to change and it would trigger a reverification the that would also be passed through.

Don Blumenthal: Stephanie?

Stephanie Perrin: Yes, hi. My question is about how you square offering a service and charging for it with relevant data protection law? I mean, I know Canada very well and we can't charge for privacy that a person is entitled to under the law. So - and I'm pretty sure that's the case in most protection regimes. So how does that work? Have you had ruling from data protection commissioners that have said, well it's okay to disclose this stuff in the Whois so therefore it's okay to protect it in a privacy proxy service and charge for it? (Unintelligible).

Don Blumenthal: Thanks. Do we need to defer counsel for the companies?

Graeme Bunton: This is Graeme.

Don Blumenthal: Yeah.

Graeme Bunton: I don't honestly know. I'd have to check.

Stephanie Perrin: Well fortunately for you, Graeme, you're not my registrar. I'm always teasing about that with (Elliot). But if I were to fire in a complaint, if I were to take a registration in each of the domains with relevant data protection law and fire in a complaint you'd get a ruling on whether or not you were allowed to charge for this I think.

Unless there was an additional service being offered here that goes above and beyond the relevant data protection law. But frankly, if there isn't material on the Website saying you're entitled to have some of this stuff protected under data protection law then you're in violation of at least our legislation. It's gratis advice there from a non-lawyer. Anyway, I think I got my answer. Thanks.

James Bladel: Well this is James speaking. And I would point out that there are a number of other that you could consider, for example, the fact that spam filtering and email and communication relay or return to sender type services would be considered ancillary services to just simply providing privacy. At least that's true in the proxy...

((Crosstalk))

Stephanie Perrin: Yeah, I'm sure there are benefits to this, don't get me wrong. I'm not trying to attack the service in general. I'm just saying that I think there needs to be notice that oh by the way, if you live in this jurisdiction you're entitled to have your name and your phone number and your address protected anyway. Right? Anyway, I won't tie you up here on that topic. It's very interesting though and thanks for the presentations. Very useful.

Don Blumenthal: Appreciate that question. Why don't we move on and I'd like to cut this off in a couple minutes so we can at least deal with Item 3 on our agenda. Michele.

Michele Neylon: Yeah, I actually wanted to speak to what Stephanie was talking about because I think it's something which is - which shouldn't be ignored. The - I

mean, she's right to a point. I'm not sure about the - whether or not I can legally charge people for privacy or not. I think I would be protected in the sense that our terms and conditions might include something about what we do with data - what people have to agree to before they can register a domain name. But, I mean, hey, if she's got the money to sue me over it then I'm sure we can work that out.

But this comes back to an ICANN problem. ICANN does not respect data privacy and forces registrars around the world to be in direct conflict with local data privacy laws.

And ICANN needs to address this and they've been told repeatedly by Article 29, and others including people within the NCUC, NCSG, that the entire data privacy aspects of how domain name registrations are handled, specifically with respect to disclosure to the world of contact details is fundamentally broken.

And a lot of the issues that we've been discussing here would disappear and would vanish and everybody would be happy, including our friends on the other side of the table who are looking for certain types of contacts, if everything wasn't published publicly and if the world was not given free unfettered access to Whois.

Consider that a partly political broadcast on behalf of a very angry Irish registrar. Thanks.

Don Blumenthal: Okay. Volker and then we'll move on.

Volker Greimann: Yes, I also wanted to respond to Stephanie's point. We understand, as registrars, that publishing Whois and passing on Whois data to registries are both under privacy regulation, a bit in the gray area. There has been no ruling so far that this is illegal and it can be argued that this can be legal under

certain circumstances and we take very much care that we observe those circumstances.

But it could also be found by a judge that these certain circumstances are not sufficient and we are required to hide more details in the Whois. For example, the European-based registries dotCat and dotTel and I think others as well have provided (adhered) Whois access where not all the information is publicly available citing local laws and being granted that right to do so by ICANN. And I think registrar Whois and registry Whois for registrants in the European Union might go that way as well in the future.

That having been said, the current circumstances under which we believe that we still can do this and provide Whois to the world is the agreement of the registrant itself and the statements that the registrant guarantees that all the data for other contacts in the Whois is actually agreed upon that this shall be published.

So basically once a registrant agrees to publish data in the Whois, in our view, we may publish that data. And if we make that agreement a precondition to him concluding the registrant agreement we believe that we are able to provide that service at least for the time that the domain is registered through us.

Data retention after that, whole different subject that we're discussing with ICANN at length now and Michele has hinted at that direction is a different subject that has to be talked to with ICANN.

And the provision of privacy service, as James has clearly said, is a - additional services beyond that and we also give the customer an opt-out of the otherwise mandatory agreement to provide that data because in the end we're not just providing privacy to him, which is his right, but we also providing additional services that go beyond that, as James has stated, yeah.

((Crosstalk))

Don Blumenthal: Thanks, Volker. I'll also mention that the thick Whois report urged ICANN to take a look at privacy related issues. Kathy, I'm sorry, but I think we got to - said something about moving on just so we can at least tackle Number 3. Can you post in the list or...

((Crosstalk))

Kathy Kleiman: Yeah.

Don Blumenthal: Okay. Mary, you want to start us off on the template on Category B1?

Mary Wong: Hi, everybody. Thanks, Don. Sure. I'm not sure what else I can say about this since this was discussed by the working group. So it really is a question now for folks if you'd review the document is this is something that you want to add to or if we can tilt the discussion on this and move on to Question 2.

Don, did you want to go through this...

Don Blumenthal: Yes.

Mary Wong: ...or allow folks a chance to review it?

Don Blumenthal: Well, no, kind of...

((Crosstalk))

Don Blumenthal: What was that?

Kathy Kleiman: This is Kathy. I'd love to comment on Question 1 before we move on.

Don Blumenthal: Okay. Go ahead.

Kathy Kleiman: Here's a general question. As I look at all these materials that are now, I believe, becoming kind of formal summaries of our discussion, I don't see - we have a really robust discussion going on online. And it seems like only a fraction of the people participating actively online have filled out the Survey Monkey with the specific wording of - opinions that then appear towards the end of the document.

So how do we get these summaries to include those people who aren't going to the Survey Monkey, those who, you know, lots of other stakeholder groups and kind of that rich diversity and robustness of what's happening online?
Thanks.

Mary Wong: Don, would you like me to respond?

Don Blumenthal: Yeah, sure.

Mary Wong: So, Kathy, I think it would be the chair's call to reach a point where there is a consensus call. And I think the intent here is to have a discussion on most, if not all of these questions, and then circle back to them. It's probably, in my view, too early to have any sort of formal consensus call. But the Working Group Guidelines do require that those consensus calls, as you rightly said, must involve the entire group.

And to the extent that it's been feasible a number of other working groups have also asked representatives who are on the working group to reach out to their respective stakeholder groups and constituencies. So the expectation, I think, is that we will come back to these templates and do a formal consensus call at some later date.

Don, have I stated that correctly or did you want to add something?

Don Blumenthal: No, I think that's fair. I think we'll try to at least assimilate some things that happen on the email list. But particularly given the last couple days I'm not sure how feasible that is across the board.

((Crosstalk))

Kathy Kleiman: ...formal responses...

Don Blumenthal: Pardon?

Kathy Kleiman: ...just for one stakeholder group. But there's...

((Crosstalk))

Don Blumenthal: Sorry, Kathy, you're breaking up pretty badly.

Kathy Kleiman: Oh. How's, this? Is this better?

Don Blumenthal: Yeah. Yes.

Kathy Kleiman: Okay. But the table - and I apologize and then I'll pull off the discussion. But the table, when we look at the second page of what we're - of what's in front of us - the who is all one stakeholder group, the Commercial Stakeholder Group. And so I applaud them for being very proactive. But this table as it is right now doesn't reflect where we've been going on this. You know, again the discussion, the diversity, the dissent.

Don Blumenthal: That's true. And my best short answer, and it's not adequate and we'll think about it a little more about the ability to gather everything is that these groups have organized well enough to get people to post. And certainly what happens in the Chat and what happens in the email is available to everybody.

Again, we'll try to figure a way we can do a better job of assimilating the table but we chose to do those because those aren't, say, formally part of our meeting sessions.

Mary Wong: Don, this is Mary. If I may? We have gotten indications from the ALAC and the NCSG and a number of other groups that they will be - or they plan on sending us responses to these questions as well. So when that time comes we will either fold them into this template, or as you say, find some way to collate and present the information to the working group.

Don Blumenthal: Tim.

Tim Ruiz: Thanks, Don. Tim Ruiz, Go Daddy. So - and maybe some of this was discussed with Kathy. I guess I kind of didn't catch all of that. But if there are other views other than what the group generally appears to agree to right now is that going to be included in these tables? I think it should be.

You know, even if it's a minority of one, you know, if there are other views I think those other views need to be captured. And I don't know if there is in this particular case. I guess it would seem rather strange if there wasn't a different view. But - and, you know, then great.

But I just want to be sure that there's no intent of saying well, you know, unless it's significant we're not going to include any other views because I think that's - that would be a mistake on our part.

Don Blumenthal: Oh, no I'll say flat out we are not going to do that. I guess the issue is just the mechanism and the time constraints on - there are some practical time constraints on being able to pull everything and put it into the table. That's the issue.

But, no, nothing is going to be cast aside as irrelevant or not enough people are thinking - everything will be on the table for discussion when we come to calling for consensus.

Kathy, new hand or old hand? Oh okay thanks.

Well we're right at 10:55 which gives us a nice neat little five minute window, specified in Item 5, for going forward with any discussion we need to have on our Singapore meeting. Mary, are we pretty well set on that - the last announced time slot?

Mary Wong: Yes. And so far the schedule is more or less confirmed. We do have the Thursday morning slot right after the SSAC open meeting which in Singapore local time for this working group would, I believe, be 9:00 am to 10:30 with a 90-minute slot.

Don Blumenthal: Right. I think that (unintelligible) only applies to me of this group but as some people know I've threatened to bring a skate board to get from one to the other. We'll see if that happens.

Okay will there be remote participation available, do you know?

Mary Wong: Yes, the room will be fully set up for remote participation, recording and so forth.

Don Blumenthal: Okay because I already know one group that plans to make itself heard but none of the members will be in Singapore. So we'll have our discussion a chance - and I'm throwing this out - our discussion, any chance for folks to contribute. Do we want to think about groups - ICANN constituency groups to make formal presentations? We've reached out to the ccNSO, they're not able to do it. But there's some other possible avenues for talking to them.

So I'm tossing that as a possibility. I guess no one different? Or have I missed something we've already talked about putting on the agenda? Anybody - this isn't just a discussion between Mary and me.

Steve Metalitz: Don, this is Steve.

Don Blumenthal: Steve. Steve, yeah, I just saw your hand there.

Steve Metalitz: Yeah, I think this is a good opportunity since a fair number of ccTLD operators attend these meetings that even though we don't have a formal meeting with the ccNSO, that's not feasible, but maybe we can solicit some ccTLDs that have some experience in this area with proxy and privacy registrations and ask them if they could come and talk with us about their experience. Really, you know, kind of similar to what we've gotten today from James and Volker just from the ccTLD perspective. Obviously a lot of different factors there. But I think that could be useful.

Don Blumenthal: Excellent. Appreciate it. I think we all know, through different activity, a lot of people with ccTLDs we can reach out to. I'm sorry, I'm just reading the Chat. I shouldn't do that while I'm trying to talk.

((Crosstalk))

Michele Neylon: Stephanie is more than welcome to move her domains to us. We would love to take all her money away from a Canadian registrar and give it to an Irish registrar. We would encourage such activity.

Don Blumenthal: Are there any Working Group Guidelines, Mary, about commercial advertisements during the sessions?

Mary Wong: Well maybe we need to define what commercial is?

Don Blumenthal: Oh good. Thank you.

Steve Metalitz: Well we all know that...

((Crosstalk))

Don Blumenthal: May I make a suggestion that we end the call on that note? Besides it's 11 o'clock.

Steve Metalitz: Thanks, Don.

Michele Neylon: I'll bring discount codes next week.

Mary Wong: Thank you, Don.

Don Blumenthal: Okay, appreciate it.

((Crosstalk))

Volker Greimann: Have a great one. Bye.

Don Blumenthal: You too.

END