

**ICANN Transcription
Privacy and Proxy Services Accreditation Issues PDP WG
Tuesday 08 July 2014 at 1400 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 08 July 2014 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-ppsa-20140708-en.mp3>

On page:

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

Attendees:

Steve Metalitz - IPC
Justin Macy – BC
Sarah Wyld - RrSG
Chris Pelling – RrSG
Darcy Southwell - RrSG
Graeme Bunton – RrSG
Don Blumenthal – RySG
Phil Marano – IPC
Val Sherman – IPC
Griffin Barnett – IPC
Tatiana Khramtsova – RrSG
Susan Kawguchi – BC
Volker Greimann – RrSG
Kathy Kleiman – NCUC
Holly Raiche – ALAC
Luc Seufer – RrSG
Stephanie Perrin – NCSG
Michele Neylon – RrSG
James Bladel – RrSG
Roy Balleste – NCUC
Michele Neylon – RrSG
Don Moody – IPC
David Heasley – IPC
Jim Bikoff – IPC
Frank Michlick – Individual
Kristina Rosette – IPC
Paul McGrady – IPC
Carlton Samuels – ALAC
Todd Williams – IPC
Lindsay Hamilton-Reid – RrSG

Apologies:

Oswaldo Novoa – ISPCP
Susan Prosser- RrSG
Brian Winterfeldt - IPC

ICANN staff:

Marika Konings
Mary Wong
Amy Bivins
Glen de Saint Gery
Terri Agnew

Coordinator: Good morning, good afternoon. Thank you for standing by. At this time all participants have the lines open. The call today is being recorded, if you have any objection please you may disconnect at this timer. I will now turn the meeting over to Terri Agnew. Please go ahead, your line is open.

Terri Agnew: Thank you. Good morning, good afternoon and good evening. This is the PPSAI Working Group call on the 8th of July, 2014.

On the call today we have Holly Raiche, Laura Jedeed, Tatyana Khramtsova, Val Sherman, Sarah Wyld, Justin Macy, James Bladel, Griffin Barnett, Graeme Bunton, Steve Metalitz, Roy Balleste, Kathy Kleiman, Chris Pelling, Stephanie Perrin, Michele Neylon, Don Moody, Don Blumenthal, David Heasley, Jim Bikoff, Luc Seufer, Susan Kawaguchi, Darcy Southwell, Frank Michilick, and Lindsay Hamilton-Reid.

We have apologies from Susan Prosser, Oswaldo Novoa and Brian Winterfeldt. From staff we have Glen de Saint G ery, Marika Konings, Mary Wong, Ami Bivins, and myself, Terri Agnew.

I'd like to remind all participants to please state your name before speaking for transcription purposes. Thank you very much and Don - have we had you join yet? Don? We're not able to hear you.

Don Blumenthal: All right, one more try.

Terri Agnew: There you are. Thank you, Don.

Don Blumenthal: Okay. I love technology. Sorry about the delay. Looks like I wasn't the only one who had issues with the Adobe audio set up or mic set up.

In any event welcome back after the ICANN break. I know a number of us were at a complete break, did post-ICANN vacations. I got back last night, hadn't been home after ICANN so apologies if I get a little strange or a little off the wall - more off the wall than usual. We've also got a brutal storm here so if I drop out please just keep on going.

In any event, I think we had - I think we had a very productive meeting in London. It's, I think, the first time, for those of you who weren't there, first time I've ever heard - seen applause after an ICANN workgroup session. Now I don't know if that was the quality of the session or just the fact that we actually wrapped up 5 minutes early, which is also somewhat unexpected at these sessions.

But 5 minutes early or not it worked out I think very well. We had a good discussion around the table of ongoing issues. Well, basically we went down preliminary conclusions that we had come to, had some discussions on some of them but what I really was impressed with is that we had a good cross section of people in the audience, including somebody who came over from Interpol after I put out a call when I was at a law enforcement meeting, and was vocal.

Had a number of vocal meeting, not decipherers, just - he did contribute. Had a number of other contributions from the audience and I believe at least one new member as a result. Graeme mentioned that to me, maybe he can fill in details on who that was and we'll check to see if she actually did sign up.

That's a quick and dirty summary. Glad to have anybody else add any highlights or any points that you think are important. No, Luc, I already had my vacation planned long before ICANN. No law enforcement intimidation there at all. That's in the chat if people can't read it.

And I actually think we might have the person who signed up on the line. Lindsay, Lindsay Hamilton-Reid, whose name I saw in chat here. So I'll step back again and see if there any - anything people want to add from what went on Wednesday morning?

Okay, seeing none or whatever the phrase is, let's move on to attend to Item 3. Yeah, okay, I thought it was there. We - we're roughly 6 months into our real work. I think it's fair to say we really got into - didn't get into the process until January so I think it's a good time to step back and see where we are. Our progress so far has been excellent. I really appreciate everybody's effort.

I think roughly we're about 4 - just about done with 4 out of our 7 topics. We had a difficult one in the first half; I expect another difficult one in the second half: relay reveal. So that should even out.

But here generally it is how we going, it's on the screen there. And just want to see if anybody has comments or thoughts on things we need to - I guess your thoughts on where we are common things we need to revisit it, adjust, consider. You know, as we've said all along that templates have temporary conclusions. We will be revisiting all of them so nothing is cast in stone yet. James.

James Bladel: Hi Don. Thanks. James speaking for the transcript. And one topic that came out of London both from the formal meeting and just sort of some casual conversations among working group members is this idea of the scenario of what happens when an accredited privacy proxy service provider loses its accreditation and what will happen to its customers and those privacy protected domain names.

And currently we have a fairly complex but I think tested process in place for when that happens to registrars. And I think one thing that we may unfortunately need to tackle as part of this work plan is developing a parallel process like that for privacy proxy services. So I just wanted to say that that may, depending on how much heavy lifting there is involved there, that may affect this work plan.

I think another option might be, and I'll just bring this out here as a proposal, would be to take it off the critical path and, you know, set up a sub team to address specifically that issue of, you know, or that scenario and determine what happens when a service provider either voluntarily or involuntarily loses their accreditation and, you know, maintaining some continuity of service for those customers. So just putting that out there as something that might be a new item that we uncovered during London.

Don Blumenthal: Yeah, I appreciate you mentioning that. It was kicked around and then product formally at the face-to-face meeting. Do you think it's appropriate to put it in with Category G that generally deals with termination but just kind of another topic within that category or should we try to bump it up?

James Bladel: So my understanding - and this is James speaking again. My understanding was that that topic, termination, was specific to a domain name losing its - terminating it status. If it includes the broader termination of a service provider then I think it would be appropriately included there.

Don Blumenthal: Yeah, I don't think it does - you know, I think the current Item G clearly doesn't include the issue you're talking about. I'm just trying to figure if there is a logical place where we could put it in, that's all.

James Bladel: We could category I guess to encompass this, that would be one option.

Don Blumenthal: Okay. Well I think we need to consider that again, where to put it and also James's idea of a sub group to be looking at it. Yeah, I appreciate you mentioning that, we do have to - it's complex enough that, you're right, it could have an effect on the timetable.

Marika Konings: Don, this is Marika. Can I comment on this...

Don Blumenthal: Yeah.

Marika Konings: ...specific point?

Don Blumenthal: Yeah, I was - definitely, yes, then we get to Kathy.

Marika Konings: Yeah, so this is Marika. And I think it's a point I made as well during the meeting in London that of course part of this question is an operational aspect which I think it's the same way as it happens with de-accreditation of registrars, it's not a policy question.

So my suggestion was as part of the framework that staff is working on that takes into account accreditation part but our assumptions of course it also looks at what happens in de-accreditation scenarios that maybe first you give some time to staff to indeed work that out and share that with the working group and see indeed if you then see if there are any policy aspects that would need to be considered as part of a de-accreditation process that would need to be addressed.

But at this stage I'm not sure how helpful it will be to start focusing on that without having an overview of the overall accreditation/de-accreditation framework that staff is working on.

And Mary and I can take it back to our colleagues to see as well what their timeline is and at what stage it would be able to share some further information on that and as said, maybe at that stage it would become clear if

there are still any policy issues that would need to be dealt with as part of the de-accreditation process.

And as said, you know, there is probably some experiences that they can share or have learned from how that happens in other scenarios so I think it's probably something where staff can do some initial work and (unintelligible) further issues to consider maybe then the Category G could be an appropriate place where those issues can be considered further.

Don Blumenthal: Yeah, I appreciate that. Yeah, we're certainly not going to focus on it immediately or I think even in the next week or so. It would be useful to hear from staff but I think right off the top inherently I can see some policy issues that are going to be there. So certainly what staff is working on will help us bring things but it's something that we're going to have to look at, at some point.

Kathy.

Kathy Kleiman: Hi Don, can you hear me? Hello everybody. It was great to see you in London. My point was not to follow up to James, but given that he's raised it I think what you are saying is important that we have to look at the special problems of a de-accreditation involving a proxy privacy service provider and particularly the danger of revealing the underlying registrant data in a situation where it doesn't have to be revealed. So I'm with you, this may involve some special attention from the working group.

The point I was going to raise was a different one which is that I think we still have some more work on Category D, Question 4 to do and I'd love to see it built into the schedule. And that's because I don't think we've really dealt with some of the concerns raised by the NCSG in its statement about the misuse of the process when alleged malicious conduct is being - is an allegation being misused to really harass an organization or find a registrant.

And it's language thrown out there because you can do it. But the proxy privacy service provider or others are on notice that this is - or have reason to know that this is frivolous or harassing. And, you know, I just think there's more to explore in this very very important point. So as we're looking at the schedule I wanted to raise that. Thanks.

Don Blumenthal: Okay I appreciate it. Well it is on the - D4 is on our agenda for today and we don't have to necessarily limit ourselves to the alternative language that's already been put together. Just a second. Excuse me.

Okay sorry about that. So, yeah, we'll get to D4 right after we talk about what's ahead of us - the second part of what's ahead of us in terms of work plan and have time to talk about some of the practical sides and how they're parts of - have to be part of our policy considerations. Any other thoughts on this topic right now?

Okay, let's move onto the next piece. You know, Mary, Marika, Steve, Graeme and I had some discussions in Los Angeles - in London, sorry, about a pilot project that I can is putting together that involves professional facilitation of face-to-face meetings. And we have been identified as a good group to test the concept with. So as a result it's been put out there as a possibility for the Los Angeles meeting.

Now as you have seen - and I'm just back from vacation and still a little fuzzy on everything that I saw in, say, chair's communications and then communications to the general group so if I could back away and ask Marika just to discuss this if nothing else you're much more familiar with the project in general but also the specifics of where we are and what we - and the Doodle poll and how we need to proceed.

Just to the group we do have some unexpectedly short--this could involve funding for travel at least for a few extra nights for one extra night. And because of new policies from the office of foreign assets control we're going

to have to deal with those questions much sooner than is normal for travel subsidies to ICANN meetings.

Marika.

Marika Konings: Yeah thanks, Don. So this is Marika. So as Don says, this is a pilot project that has been requested by the GNSO Council by some of the recommendations that were made by the ATRT 2 to look out what ways would, you know, help for facilitate PDP working group's, you know, possibly looking at reducing timeline, also maybe working (unintelligible) discussion and basically trying to experiment with some features that may facilitate those topics.

So one of the suggestions is indeed, you know, one aspect is that the face-to-face aspect doesn't really help working groups moving forward having face-to-face time. And I think most people probably agree that that has tended to work quite well either as part of an ICANN setting or separately.

And then there's also the question of, you know, professional facilitation doesn't help, you know, bringing in an outsider to facilitate some of the conversations and trying to move forward in some of the topics the working groups are looking at.

So as such the GNSO Council received funding under the special budget request from the ICANN Board to test or pilot such a project over fiscal year '15.

So the idea is that tagged onto each ICANN meeting we'll have a one-day face-to-face meeting of a PDP working group, you know, looking at where the different groups are in the timeline. And in this case for the LA meeting it looks very timely for Privacy and Proxy Working Group to maybe have that opportunity as it already aligns with the publication of the initial report which is

for seeing for the beginning of next year. So it may be an opportune moment to work through some of the items that we haven't been able to resolve yet.

So the (unintelligible) is to have a full-day meeting on the Friday, 10 of October, right before the start of the ICANN meeting. Just to (unintelligible) what Don said, the only thing that is funded under this pilot project is the one night additional hotel night from the Thursday to the Friday.

And the assumption is made, or the thought is that as part of this project some of the groups that get allocated travel funding will take that into account as they make their decisions on people being assigned to travel to the meeting.

What is covered under the proposal is that each stakeholder group can assign up to six existing working group members to participate in the face-to-face meeting for whom one additional hotel night would be covered. As said, no air fare or other travel funding is covered as part of this pilot project.

So as such, you know, is really the hope that stakeholder groups are able to identify either members that are already funded for the travel either through the other meetings, you know, ICANN funds or by themselves and are able to participate.

If stakeholder groups are not able to use all of their six slots the working group chairs may decide to allocate the one additional night to another working group member taking into account the overall balance of participants.

And the same also applies to 6 slots for SO/AC or individual working group members that also have been foreseen to participate. Although if, you know, if there are groups that have more than six people that don't need additional funding of course the meeting is open and will also have remote participation.

I think it's very important as well to emphasize that of course anything coming out of that meeting, you know, will be going back to the mailing list and, you know, we'll make sure as well that if people are not able to attend, you know, new decisions are taken they are that, you know, can't be undone or are not that said through the broader group.

I think it's very important as well to highlight this is really a pilot, and we hope to learn from this and at the end of the fiscal year make an assessment on whether this works, doesn't work, what are areas for improvement, what was the experience of people, did it help indeed in the overall timeline of the PDP to reduce that. You know, did help working groups to work through, you know, complex issues that may have been harder to do, you know, via conference calls or mailing lists.

Again, this is really an experiment. And the idea is that following this call we'll send you an email with further information and also an initial Doodle poll just to already assess whether people are actually available noting that, you know, in certain cases it may really depend on whether you'll have the means to actually come to the LA meeting.

But we just want to see if there is any indication or interest to participate in such a meeting. So we'll plan to send it out shortly after the meeting and hopefully you'll be able to respond to that as well.

Just one note of caution here as well, we've been told that for this specific meeting the information on funded travelers, which is as said, you know, separate from this pilot project but which goes through each of the stakeholder groups and constituencies, has a much shorter timeline than some of the previous meetings.

So that as well the reasons why we wanted to flag this so early so that's all the stakeholder groups and constituencies are aware that, you know, this meeting is being planned and hopefully that can be factored into any

discussions or decisions that our meeting made in relation to the funding that is assigned to people to travel to the meeting.

So I think that's a snapshot. There's also a more detailed proposal that we shared with the Council that the Council reviewed over the weekend in which we've outlined a little bit the proposed approach.

You know, of course we'll closely look as well at the work plan and work closely with the chairs as well as the facilitator to plan for the actual day because of course the real objective is as well to make as much use of that time as possible and of course as well share that with the group so everyone is part as well of those conversations and it's really a collaborative effort hopefully.

So I think that's all the information I had to share at this stage. But as said we'll be sending out an email shortly after this call with further information as well as a doodle poll and hopefully many of you will be able to participate in the poll as well as the meeting itself in LA.

Don Blumenthal: Thanks. Appreciate the description. Yeah, well clearly I was fogged enough that I got at least one piece wrong. Steve.

Steve Metalitz: Yeah, this is Steve Metalitz. Just two questions, and some of this may be answered in the material you'll be sending out. But you referred to an additional hotel night but in fact, I mean, if you look at the people who are participating in this working group from my stakeholder group very few of them are likely to be - well, don't know for sure but there may not be overlap; there may not be much overlap between the travelers who receive assistance - otherwise receive assistance to come to an ICANN meeting and those who are participating on this working group.

So if someone is not receiving any travel support are you saying that they would get one night travel support if they attended this meeting and if they

were on the list submitted by the stakeholder group? I guess that's my first question.

And my second question, which may be, you know, because of the accelerated timetable here, I guess the question is by when do we have to make the go or no-go decision on this? Thank you.

Marika Konings: Yeah, this is Marika. On the hotel nights, indeed, the assumption was that it would be mainly people that would already be funded by ICANN travel funds to come to the meeting and for those...

((Crosstalk))

Steve Metalitz: I'm telling you, Marika, that that's not - that assumption is not...

((Crosstalk))

Marika Konings: Yes, exactly. So that may be something we need (unintelligible) as part of the, you know, evaluation of the pilot project. However, you know, we do have basically - the budget is based on the number of hotel nights so indeed if we do see that, you know, there are hotel nights left or we have less people able to participate we can of course decide to reallocate that.

And I think that's a discussion that the chairs may want to have looking at, you know, the application received and making sure as well that there is a, you know, I think a reasonable balance between the different groups. So I think from that perspective there is flexibility but there is a cap on the number of hotel nights that we have been granted.

Steve Metalitz: Okay. And then do we - maybe this will be in what you send out what is kind of the date for making a go or no-go decision on doing this in person meeting.

Marika Konings: So this is Marika. Basically I think we're operating on the assumption that it is a go and lands, you know, we get indications based on the Doodle poll that no one is able or interested in to come. I think that's the assumption we're operating under at this stage, at least from my perspective.

Steve Metalitz: Okay thank you. I think this is useful information. I can see there's a lot of objection in the chat to having this discussion, I'm not sure why, but I think it's helpful to have these details. Thank you.

Don Blumenthal: Okay. Yeah, no I think we did need to at least throw the possibility out there and give people time to ask questions. If there aren't any...

Terri Agnew: This is the operator, we'll try to isolate that line.

Don Blumenthal: Hello?

((Crosstalk))

Don Blumenthal: Okay. Yeah, this is kind of a fairly important thing for the working group. And I think it was necessary to at least throw it out on the call. If there are no more questions that need to be answered now we'll move it over to email and a Doodle poll and move on to Category D Question 4.

I'm just waiting here. We've had a bit of back and forth on the whole issue of types of abuse. We've talked about reporting forms, you know, there have been a few suggested edits to the last version that we looked at it with quite a few I think back and forth that never even got to - got to document. But I'd like to move ahead here.

Sorry, had to break again. Try to wrap up these four today. We still - looking at the prepared text I think we have some issues concerning the concept of a standardized reporting form. To be honest I think part of the issues are what

should be in it but even a threshold issue is the extent to which we're maybe going a little bit past our scope and into the operational details.

But also Kathy had some additional issues she wanted to - or maybe old issues that she wanted to address more closely. Steve.

Steve Metalitz: Yeah, this is Steve Metalitz. Looking down into the end of this document that's posted here and that preliminary conclusions I see we have three versions and I'm trying to understand the differences among these three versions.

As far as I can tell the only difference between what's listed as working group preliminary conclusion and what's listed as Don's suggestion is that Don drops the word "indicative" from the statement that there should be a list of - an indicative list of forms of conduct that would need to be covered and you've dropped "indicative." So I guess my first question is that the only difference there?

And then the second - on the point about - well let me just - let me go on with the second point which is those two versions make some reference to a starting point for such a form could be that use under the Digital Millennium Copyright Act in the United States.

I'm not quite sure where - I don't remember how that got, you know, who proposed that sentence but in fact there isn't really a single form under the Digital Millennium Copyright Act; as a list of - minimum list of information or data that has to be included in a DMCA notice.

And there is some work underway right now to try to standardized forms. But there isn't really a standardized form today. So I just wanted to say that if we go with that language we may need to modify it to say that a starting point could be the information required under the Digital Millennium Copyright Act

or something like that because there isn't really a standardized form. Thank you.

Don Blumenthal: Okay, well I'll answer at least the part address to me. I dropped the word "indicative" but I also added another alternative as the reporting form. To be honest, as I suggested a minute ago, I'm not sure that that level of detail is even appropriate for what we write, but I'm tossing that out for consideration.

The DMC possibility was discussed on at least one phone call and as a result brought into the - the text for preliminary conclusion. Appreciate the note about there is no form; I'm not that familiar with it and nobody else raised that point at the time it was being discussed online. Kathy.

Kathy Kleiman: Sure, although I did ask for the form to be circulated if someone had it and no one circulated it so I love Steve's idea of maybe crossing out the DMCA language because a lot of questions have been raised about it. Thanks.

I wanted to raise three questions about this section, Category D, Question 4. One is quite is the underlying purpose of the question? Is it to identify conduct or is it also to identify more information about the questioner?

Which leads to my second question which is, how do we protect - and this is something the Non Commercial Stakeholder Group statement raised, which is, how do we protect against fraudulent complaints, harassing complaints, misleading complaints and frivolous complaints? I'd love to know more from the proxy privacy providers.

But I've heard stories that there are providers who can identify, you know, which attorneys are coming in for legitimate purposes versus illegitimate purposes and others as well. And so how do we incorporate that kind of information into our discussion of this matter?

And then the third thing is as I look at this question overall is that we are applying standards from the new gTLDs to the existing gTLDs. And I wanted to know if that was being done purposely or kind of unintentionally? What we see is references and footnotes to safeguard to Annex 1 of GAC's Beijing communiqué which states kind of a more explicit or wider area of abuse.

And we're kind of applying it to everything, to existing gTLDs as well without really flagging that this was something that was written for and intended for new gTLDs. Do we really want to expand it to existing gTLDs? And I just thought - I wasn't sure if that conversation had been had before we kind of adopt it.

But one thing I'd really like is for staff if they could flag the footnotes that this is language for existing - for new gTLDs, that when we look at revisions to the Registry/Registrar Agreement this is specifically for new gTLDs, not existing gTLDs.

So thanks, those are the three things; the larger purpose of the question, how we protect against questioners who may not have the best of motives and this kind of existing gTLD/new gTLD question. Thanks, Don. Sorry to give this in our post-holiday period.

Don Blumenthal: Okay. Thanks. Yeah, I'll just move on. Holly.

Holly Raiche: Yeah, I have - first of all I would agree with Kathy. I think we should - I think we can drop the language of the American Copyright Act since that particular provision in there simply don't apply in probably most of the rest of the world, certainly not in Australia so it wouldn't make sense here.

But I also have a question in terms of are we differentiating between our request for information from say law enforcement which will involve criminality and probably prompt response and probably through established law

enforcement agencies as opposed to any other request which is legitimate or not legitimate.

Because I think certainly from what I've heard from some people if the request for information is from a law enforcement agency and it's verified and it goes through the right channels there will be a pretty prompt response. What we don't understand is the response that will be from other requests legitimate or otherwise, and perhaps we need to treat those in different ways. Thanks.

Don Blumenthal: Holly, let me just ask you for a clarification. When you're referring to a request from law enforcement, are you thinking about a compulsory document or just your...

Holly Raiche: Yeah, what I'm suggesting is there will be instances when recognized law enforcement agency is detected essentially potential criminal activity or activities that they want immediate takedown. I mean, it's a clear criminality issue which is I mean, most registrars would respond to immediately as opposed to other quite legitimate requests for information perhaps from corporate regulators, from IP people, from lawyers, from whomever, not the law enforcement agency but nevertheless a legitimate request for information.

Obviously they're going to be - well my understanding from conversations in the past, they will be dealt with differently. I hope that clarifies that.

Don Blumenthal: It does but let me just suggest as somebody who's, you know, heavily into this - into the topic for PIR, I'm not sure it's accurate to say that we would react to a law in force meant inquiry different from anybody else if it wasn't a warrant or a court order. If it was just a please take it down or please give us this information I wouldn't assume that we would act on that.

Holly Raiche: No, I was referring to say a court order or a warrant where in fact there would be a response as opposed to a request.

Don Blumenthal: Okay. Well in that case - okay, then we are on the same page, wasn't completely sure there. Steve.

Steve Metalitz: Yeah, this is Steve Metalitz. Going back to Kathy's questions. First, as to the - I think if we go back and look at the question here is what are the forms of alleged malicious conduct, if any that would be covered. It doesn't really get into who's making the request.

My sense is that that's, you know, going back and looking at the responses that my constituency made on these questions back in March, I think that's best dealt with under relay and reveal because then that's where you might get into, you know, you might not respond to a frivolous request or kind of a, you know, request that illegitimate. I mean, I'd be happy to consider what language you would want to suggest here but I think it probably fits better in Categories E and F.

Second, on your point about - we're not importing new gTLD standards into this, we're using a list that appears in the GAC communiqué and in the public interest commitments as an indicative list of the kinds of conduct, again that's what the question is about, the kinds of conduct that are involved.

If you have a better list or another source that could be used for this I think we should include it. But that's - it isn't imposing any - it's not treating all these the same as new gTLDs.

You know, there is language in the Registrar Accreditation Agreement that addresses some of this but it seemed like the list of - that was in the PIC Commitment Number 3 and in the GAC communiqué - Beijing communiqué is applicable to all new gTLDs was a good list to use as a starting point for this indicative list.

And finally, to Holly's question, again, I think this question is about what kind of conduct are covered, what kind of alleged misbehavior rather than who's requesting it. But this would apply both to law enforcement requests and non-law-enforcement requests. So, you know, they could come from either source I suppose. Thank you.

Don Blumenthal: Let me just inject, although any list we come up with is a relevant if, you know, if I get a court order directed at Public Interest Registry, whenever we've gotten this list, you know, of course we wouldn't be a proxy privacy provider but the point is anything we came up with is going to be irrelevant if we get a court order saying do it.

Michele.

Michele Neylon: Thanks, Don. Michele Neylon for the record. Okay there's been quite a few people in there since I kind of put my first hand up so I'm going to kind of go backwards a little bit.

With respect to the court order point we will respond to court orders if they come from outside the Irish jurisdiction that we're not going to act on them. So, I mean, I'd be careful about saying that everybody is going to act on a court order.

If I send PIR a court order issued by court here in Carlow I sincerely doubt that PIR would act on it. I mean, you might respond to it but I can't see you acting.

Going back to this entire thing around the DMCA thing, from my recollection on the conversation around this I think what we were trying to do was to come up with some kind of standardized reporting format or form or something, I mean, in other words the elements that would be required in

order for an abuse report of some kind to be actionable I suppose in some respects.

I mean, for example if somebody sends in an abuse report to us saying that there's an issue with a server but they don't specify which server, it makes it very hard for us to do anything, I mean, in fact it renders it completely impossible. Or if somebody sends in some other kind of vague thing, you know, you can't really act on that kind of report; unique detail to be able to do something with it even if it is simply to say it's out of scope for you to handle it. I think that's where that entire thing with the DMCA came from.

I agree with others, I mean, the DMCA isn't probably the best thing to base anything off but if there had been some kind of standardized form it would have done nicely as a starting point. What else? There was quite a few other things that came through there but I think I'll leave it at that. Thanks.

Don Blumenthal: Thanks. You anticipated some names I was considering there. Stephanie.

Stephanie Perrin: Yes, hi. Can you hear me?

Marika Konings: Yeah.

Don Blumenthal: Hello?

Stephanie Perrin: Working? Okay.

Don Blumenthal: Yeah, yeah. Now we can't hear you. Stephanie? Is anybody else hearing Stephanie?

Man: I think we lost her.

James Bladel: No.

Don Blumenthal: Okay.

Michele Neylon: She has gone AWOL.

Don Blumenthal: Okay. Well hopefully she'll come back in. Are there any other comments on this point or on D4 in general? Okay well handing Stephanie jumping back in, Kathy.

Kathy Kleiman: Yeah, great. Don, if we are talking about forms here what type of information - let me throw out to everyone if I might - what type of information would be useful to know from the questioner? And maybe it's more than who they are but also some basis for the request.

I know we're not going through a full evidentiary hearing here but how do people differentiate a frivolous request from a legitimate request? Let's exclude law enforcement at this point and go to Holly's point of the non-law-enforcement requests. I think this is a really important question so thanks.

Don Blumenthal: Well we do have the APWG form that people should have received. And I think a question I'll toss back is the issue who - and I think Stephanie suggested this in text is the issue of who versus what.

Kathy Kleiman: But, Don, can I add that with APWG some of it is more - tending more independently verified when we're talking about now where, spam. Here we're running - given the list of issues that we're looking at we're running into content issues and a lot of that is in the eye of the beholder. Is that a copyright infringement or...

((Crosstalk))

Kathy Kleiman: ...versus APWG which in general, and correct me if I'm wrong, I found it is more subject to independent verification, malware, you can check that, botnets, there are ways to affirm this even independently.

Don Blumenthal: Right we'll move on to Michele in a second. That's true but that's still - and again, APWG is just a list of items we can play with if we get into specifying but still it's an issue of - because of the trademark doesn't necessarily mean it's a frivolous - so I'm not sure that identifying by submitter or subject is going to be conclusively - is going to be conclusive. Michele.

Michele Neylon: Thanks, Don. Michele for the transcript. Just to address some of Kathy's points, and probably not all of them, I mean, from our perspective as a hosting provider and registrar the kind of things that we would need for an abuse report of any kind in order to do anything useful with it would be the domain name, preferably the full URL to the abuse and a clear identification of what the abuse is to be that malware, phishing or something else.

I mean, in the cases of copyright type things, I mean, we've seen people trying to use all sorts of interesting copyright claims which aren't simply a case of Person X is providing movies for download or something, which we can actually understand him and like, you know, Person X is using some of my software without a license and, you know, it's something which is really really messy and hard to understand.

But the thing we get a lot of unfortunately is completely useless kind of complaints where it's like, you know, you are hosting a Website that insults me, full stop. They don't have to tell you which Website it is; they don't tell you the domain name is or anything else. That becomes quite hard to deal with. I'm sure there are other people on the call who would have more experience of different types of requests.

To date I think we've only received one complaint of sorts, which was more of an inquiry from a consumer protection authority, which was the Irish Consumer Protection Authority which was - I can't even remember what it was about. It wasn't a big deal anyway.

But we do get quite a few of the ones where even if they have a genuine complaint it becomes quite hard to decipher it. And assuming that any registrar or their staff is particularly interested in a whole load of stuff to do with a particular company's marks and stuff like that is kind of weird.

I mean, what causes most deletes for us is that the business part of us, the bit that we actually care about, the type of abuse isn't clearly identified toward the top level of the report. Thanks.

Don Blumenthal: Okay. Thanks. And to be honest I think - well, no never mind that. Steve.

Steve Metalitz: Yeah, this is Steve Metalitz. I think the items Michele lists, I mean, is interesting because that's actually pretty closely parallels what would be required before a DMCA notice, you know, to give the domain name or that URL and clearly identified what it is that you claim to be the abuse and so forth.

So again I don't think there's any need to reference DMCA but it could be that the types of information that are required for that notice is useful in this context. Again I would, you know, this question focuses on the types of abuse than, again, this is a proxy or privacy service provider so you receive a complaint, what are you being asked to do is really the question isn't it?

I mean, one thing you might be asked to do is to relay it. One thing you might be asked to do is to reveal to the complainant who the actual registrant is. One thing I suppose you might be asked to do is kick the registrant out of your program for violating terms of service and thereby make that information available to the public in general.

I'm not sure what else there would be that would be the - that would be the thrust of the request. So when we get to relay and reveal we should talk

about, you know, what is the method for screening out or what exactly should be required in this notice.

But I'm not clear that for a proxy or privacy service provider there's anything else other than relay, reveal or publish if you will, that would be required. This is not a case where you're being asked to take, you know, to cancel the registration because proxy service providers don't make registrations. So, you know, or at least they're not registrars.

So - and it's not a question where you're being asked to take down anything; it's a situation where you may be asked to relay or reveal. So let's just keep that in context when we discuss this. Thank you.

Don Blumenthal: Thanks, Steve. Any other comments? Stephanie, we've got about two minutes if you can come in. Your text testing is working or your chat testing is working. Hello?

Okay we do have just two minutes left. Are there any other comments? Clearly there's no point in opening up Category E Question 1 at this point. Are there any other comments people want to raise concerning these issues or anything else that we - that we've talked about today? Now that I vamped I'm down to one minute.

Kathy.

Kathy Kleiman: Hi, Don. Just real fast. I think we're talking about some new fields in the chat room areas and so, you know, just slightly expanded field that may help us as we go in to reveal and relay so I look forward to the updated version and appreciate the discussion today.

Don Blumenthal: Okay.

Kathy Kleiman: And want to know more about the secret agreement between Michele and Steve.

Steve Metalitz: Totally confidential.

((Crosstalk))

Michele Neylon: It's secret. It's confidential for God's sake.

Don Blumenthal: Are we allowed to do that on a GNSO working group?

((Crosstalk))

Man: It's not in breach of any guidelines.

Don Blumenthal: Okay. Stephanie, I just heard your voice but we just hit 11 o'clock or the end of the call wherever you happen to be so if you could send it out in email or whatever I'd appreciate it. Sorry about the foul up wherever it was or sorry about the foul up, that's a good way to put it. It probably wasn't on Adobe's end or ICANN's end or I'm going into post-travel babbling aren't I?

Why don't we - oh I'm sorry, I just saw Marika's hand there.

Marika Konings: Yeah, this is Marika. I just need 10 seconds. Just to note that we do have a template ready for Category E Question 1 in which we've tried to gather as much information as we can on the relay questions that come up in that and we'll get that out after the call so people can already start thinking as well ahead of the next meeting if there's any other information that should be included there as background information either from studies or other reports that have been produced by ICANN or other groups so that we can, you know, start the conversation possibly next week on that topic. That's all.

Don Blumenthal: Excellent. Thanks. And with that why don't we wrap today's call and talk to you all next week.

((Crosstalk))

Kathy Kleiman: Take care.

Steve Metalitz: Bye.

Man: Thanks, everyone.

Man: Thanks, all.

END