

ICANN
Transcription
IRTP Part D Working Group meeting
Monday 11 August 2014 at 15:00 UTC

Note: The following is the output of transcribing from an audio recording of IRTP Part D Working Group call on the Monday 11 August 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-irtp-d-20140811-en.mp3>
On page: <http://gnso.icann.org/calendar/#aug>

Attendees:

Barbara Knight – RySG
Graeme Bunton – RrSG
Holly Raiche – ALAC
Volker Greimann – RrSG
Arthur Zonnenberg – RrSG
Kristine Dorrian – National Arbitration Forum
Angie Graves-BC
Avri Doria – NCSG
Bartlett Morgan-NCUC
Rob Golding-RrSG

Apologies:

Paul Diaz – RySG
James Bladel - RrSG

ICANN staff:

Amy Bivins
Lars Hoffmann
Berry Cobb
Terri Agnew

Coordinator: Your recordings have now started.

Terri Agnew: Thank you. Good morning, good afternoon and good evening. This is the IRTP Part D Working Group call on the 11th of August 2014. On the call today we have Barbara Knight, Holly Raiche, Graeme Bunton, Arthur Zonnenberg, Kristine Dorrain, Angie Graves and Bartlett Morgan.

We have apologies from Paul Diaz and James Bladel. From Staff we have Lars Hoffman, Berry Cobb, Amy Bivins and myself, Terri Agnew. I would like to remind all participants to please state your name before speaking for transcription purposes. Thank you very much and back over to you Lars.

Lars Hoffman: Thanks Terri. So before I go straight back to Holly just very quickly does anybody have any updates on their SOIs? That doesn't seem to be the case. So what I'd suggest we do for the agenda today since we are fairly thin on participants is just look briefly at the wording of the additional recommendation that's up on the screen right now, and then maybe go through a few other minor points how we want to establish consensus.

I've got a few suggestions but before we do that I hand it back to Holly who had a point to raise from before the call started. Holly over to you.

Holly Raiche: Thanks Lars. If you can show on the screen the very front - the very beginning of the report - well I think this...

Lars Hoffman: I've unticked it. To the very top of the report - so this - the current place.

Holly Raiche: Okay I can - I could scroll down. I can do it myself.

Lars Hoffman: Yes I think that if you just let us know which page and then we can, you know, go there.

Holly Raiche: Okay. Let me find it. Look, I'll tell you what. Let's go over the recommendations and I'll go looking for it again, and then I'll be able to point exactly to it okay because I can scroll down on my screen.

So maybe go back to where you were and we'll go through that, and meanwhile I'll find the exact sentence. I was just reading it beforehand and just something caught my attention.

Lars Hoffman: No problem. All right. So here we are on the additional recommendation that James put out to the group last week. I made some changes so they all appear to show changes because as I said I copied them into this report.

And so there's a question really over this point but anybody have any updates to this? The changes I made were that Alan suggested to include in the CBM the 18 - the Recommendation 18 in bold in the middle of the page.

And the second line - it has a recommendation to implement it including IRTP. ICANN through the GNSO commit to convening a panel. And when I reread this and went through records - through the call records of last week, Volker made a point that I was on target and I captured it correctly about the timing, so whether the group intends that this should start the review of whether the IRTP governs those workshops, that on the day that the final IRTP recommendations presumably from this group is implemented, whether there should be a lead period by, you know, on the 31st of October and the last one is implemented.

And then 6 months later or 12 months later the review starts which then in itself will take obviously presumably a few months. So I left the wording as it was.

I think Volker just joined the call for him. I'm not sure if you can hear me and I hate to put you on the spot but I'll do it regardless or anybody else for that matter.

Volker Greimann: Yes I think the principle is mainly agreed upon. I just wondered if the wording captured that. Maybe we can just mark this with an annotation of - that this is on - our understanding of that wording.

Lars Hoffman: Your understanding being that it will start the day that the last recommendation is implemented or with a time that's just 12 months?

Volker Greimann: With the time gap of at least 12 months to allow for analysis of the results of this implementation. I mean, if we start the analysis right when it's implemented there's nothing to analyze yet because it hasn't...

Lars Hoffman: Right.

Volker Greimann: ...had any effect yet.

Lars Hoffman: Yes. Okay great. That's how I understood it and we'll leave it as it is. Great. Thanks Volker. Right. And Berry raised his hand. Berry over to you.

Berry Cobb: Thank you Lars. This is Berry for the transcript. I think in general, you know, I do like this recommendation. I - at a higher level I'm hopeful that this becomes a - more institutionalized as consensus policies are implemented, you know, that we're doing kind of a continuous improvement component to ensure that how the policy was implemented met the intent of the consensus recommendation.

The, you know, I think looking at this Recommendation 18, you know, this is easily going to be into probably 2017 before such a group or - and/or the 12 months is - occurs.

You know, I think it'll take a while for Staff to implement these recommendations. Typically once the final policy language has been adopted and approved, going through public comments, a policy effective date is established plus six months or so for Contract Parties to become compliant with that new consensus policy, then 12 months.

So I just wanted to make the group first aware that, you know, this is going to be a considerable timeframe out before this review and the 12-month cycle happens.

Secondarily, the only concern that I have about how this recommendation is structured, and I'm not necessarily looking for an answer here today, but really more for the Working Group to think about is the middle section, which highlights the type of data to be collected.

I think first, you know, since this recommendation is kind of taking it back up to the entire IRTP and not just the recommendations out of D, I'm not sure that this list is all inclusive.

But where my concern is is how does this data get collected and by whom? And I, you know, I know that there are one or two things that are in motion with other Working Groups about how data can be collected from Contracted Parties.

But at this point, you know, it's too early in the stages to know exactly what that's going to look like. So I think my concern here is, you know, how this data gets collected so that we can implement this recommendation. Thank you.

Lars Hoffman: Thanks Berry. Is there anybody else who'd like to mutter what Berry just said or to react to it? By the way - and Arthur if - because you're in the Adobe room if you'd like to speak you can just add yourself anytime to the queue so that, you know, just unmute yourself and say what you would like to say.

Arthur Zonnenberg: Hi Lars. I was speaking without raising my hand in the Adobe room because I am unable to connect to that Adobe Connect currently. I pretty much agree with what Berry just said.

It is not expected or customary to change something overnight at ICANN and nobody expects immediate changes, especially not considering that the original IRTP policy has been in effect since 2002 or even before that time.

At the same time it's necessary I think to collect sufficient metrics so that we can change or can measure its - the effectiveness of the policy in general. And to that end I think more metrics are needed to provide a complete picture once we start measuring and once we start actually engaging the effectiveness of the current policy and seeing whether we can improve upon it. That's it for now.

Lars Hoffman: Thanks Arthur. Volker over to you.

Volker Greimann: Just one question. I thought about this and we are not directly making any recommendations of what to do with that result. So we are charging ICANN with analyzing but the result of this analysis - there's nothing really that - there's nothing triggered by this.

So if we find that everything that we've done is for naught and nothing has had any measurable results, well that's the way it is. That's what the policy has brought.

And do we have - is there a trigger for a new policy development process? Should the policy that we've made be rolled back? Should it be left as it is? There's no - nothing that follows from the studies there.

And I'm - just as food for thought. Do we want something like that or do we want to leave that for future generations?

Lars Hoffman: Thanks Volker. I mean, I suppose. The policy says that at end of the recommendation - that at the end the goal is to create a center for the more secure policy but it's not readily understood. And I pass the ball to you as a Registrant.

So I suppose that implicitly means that if the organization determines that the policy is not as effective as it was intended to be, a new policy should be developed.

But I'm - I appreciate that this is not perfectly clear as I know we want to think of, but I'm happy to rephrase this. And so if the group thinks that, you know, an issue report should be called for if the policy is not effective, then I'm very happy to include that into the wording.

Any thoughts anybody? And I just scrolled down -- I'm just going to sync you - on to Page 41 at 5.2.7.4, Expected Impact of Recommendation. I drafted this for all the various recommendations for the first time in this report, and it's something we have to go through at some point obviously.

But here Volker points out the expected impact of recommendation. The Working Group expects to see the ICANN Board launch a 360 review of the IRTF through the GNSO to examine the policies of prohibiting efficiency.

If necessary a subsequent issue report and PDP should be launched to either address any shortcomings or even to redesign the policy as a whole. Yes Holly.

Holly Raiche: Holly Raiche for the transcript. I think that actually answers the question. It basically says if - because you will have the data on hand and I still think we do have to - there is a - an open question.

How do we get it? But if you have the data on hand and it doesn't indicate there's a problem then in fact you don't have to do anything. I think that what this does is basically say that we'll take a look at it and if there's a problem then you proceed.

I just think you've sort of answered just saying that your - the issue that you raised but you've answered it down here I think is the way I'd look at it.

Lars Hoffman: Thank you Holly. Yes, I mean, I - sorry. Berry go ahead.

Berry Cobb: Hi this is Berry. I, you know, I like the wording down here in this last section as well. I think the only other thing we may want to try to do especially, you know, with keying on the word issue report is that it's not in the actual recommendation part.

So when - at some point when we go to draft the resolution statement that the Council will take a look at after they've deliberated on these recommendations in the final report, that part may not wind up in the resolution.

So maybe it would be good to try to figure out how to put one or two of those keywords in the actual recommendation so that we know that it gets transferred over appropriately.

Lars Hoffman: Okay very good Berry. I'll move some of the language upward under the X recommendation as well. It's a very good point. Thank you. Right. Anybody else on this particular additional recommendation on the future of the IRTP? Berry I presume that's an old hand that's up.

Berry Cobb: Yes sorry.

Lars Hoffman: I can tell them. Okay.

Arthur Zonnenberg: If I could say a short word.

Lars Hoffman: Of course Arthur. Please go ahead.

Arthur Zonnenberg: Yes. You know, I would for the purpose of this group agree with these recommendations or the - these intentions of where we are going. I would just like to make everybody aware that in the IRTP C and the change of Registrant, so change of the registered name holder, not the change of Registrar, we now only require a code.

We just require an authinfo code or similar. In other words we do not require an FOA there. So from - so without - even without the metrics and even without changing the policy based on scientific evidence if you will, the logic of the policy now contradicts between processes where Registrar transfer is made - is more complicated currently than a change of registered name holder.

So perhaps it will not be necessary to review if we would set ourselves the goal of a logical policy of a consistent and logical policy. At the same time the impact of such a policy change would be quite high and would draw, you know, considerable objections.

So it's a kind of stalemate that we can only break through by having the metrics and doing the study and doing the review after the effective date because, you know, the - we will not have enough consensus for changing the necessity of the FOAs right now.

Lars Hoffman: Thank you Arthur. Okay. I'm wondering whether we should move on the next point. Considering no hands up I'll go right ahead. The next point on the agenda is considering the expected impact of the recommendations.

So I'm just going to sync the document for just one moment so we're on the same page. To - you will see - sorry, just one second. And then it's supposed to go quick.

Here you go. I'm thinking again. So we're on Page 31 and that - it says here, "The expected impact of recommendation." It's a subheading that goes with each of the charter questions, and so the recommendations that go with that.

So for some charter questions it's just one recommendation. For others it's several, I think up to four. We have six charter questions in total but we have 18 recommendations.

And so the wording I've provided here is - it's a draft that I've taken out of what I understood was the general discussion and the general consensus of the group.

It's obviously as I said a draft we're adding and open to any amendments and/or changes that you see necessary. I've moved you up a little bit because this - I was already on Charter Question 2 then Charter Question 1.

The charter question was about whether reporting requirements for Registries and dispute providers should be developed in order to make precedent and trend information available to the community and allow reference to past cases in dispute submissions.

And as you might remember, the group recommended that yes this should happen and they were - recommended changes to the TDRP policy to make sure that this becomes a duty to report - I'm sorry to report - to improve reporting requirements for the TDRP. So here just the working group expects to see an improvement in visibility, transparency and consistency of TDRP outcomes obviously by making it a requirement to publish any such proceedings.

Does anybody got any questions on this or would like to make any amendment or changes at this point? No. I moved through these all very quick, so I'm just going to - I would like to talk you through you it and obviously on your own time, you can go back to these and make changes as you see fit on the mailing list until the next call or even the week after.

This is for charter question two which is about on the right-hand side you see the (unintelligible) what additional provisions should be included in the TDRP and how to handle disputes and multiple transfers that occur. There's a number of recommendations I think we just made on this issue, related to this issue, an amendment to the -- sorry, so sorry -- TDRP so that when

(unintelligible) occurs, the demand is transferred back to the original registrar record.

The extension of such implementation as part of these recommendations for the charter question from six to twelve months and also the lock of a domain name when a TDRP is launched as part of this. And so the expected impact of the recommendation as drafted by the working expects a reduction in domain hopping and forwarding and transfers. The group also expects more security for registrants to notice fraudulent transfers with sufficient time to allow the registrar to take appropriate action to remedy the situation.

If there's no hands I'll scroll to the question number three or question C. So the question C is whether dispute options for registrars should be developed and implemented as part of the policy. You'll recall that we don't recommend this, but part of the recommendation of this to the charter question is that we add another definition to the policy to be found in the annex. The use cases that are also part of the annex should be dealt with either by part C, the implementation of ITTP part C, or through future policy procedures and development, and crucially, the modification to eliminate the first or registry level of the TDRP.

And the expectation impact of these recommendations reads the working group expects the development of any registrar transfer disputes resolution options - I'm sorry, inter-registrant transfer dispute resolution options in combination with the implementation of ITTP part C. The working group also expects more transparent or consistent TDRP rulings though the discontinued nation of the registry layer. However, whether this will be - will create a barrier to access must be monitored in the worry that - the (unintelligible) group that the monetary impact of the movement registry layer might create a barrier to this.

And the working group expects that the user friendliness and the consistency of the TDRP and IRTP ought to approve through the addition of the literal

definition that can be found in annex F. No hands on this one either. The next charter question whether existing penalties or policy violations are sufficient or if additional provisions or penalties should be added to the policy.

The recommendations on this are that we are proposing to create a user-friendly website on the ICANN site to which then registries - I'm sorry registries, yes, and registrars and also retailers where appropriate would link to and it would be for ICANN to keep this up to date so that the information that is linked from the registrar is equally up to date, because the link would hopefully remain stable.

But no additional penalties should be included into the policy simply because the RAAs have been upgraded over the years. When the charter question was first formulated I think we were still operating on the 2003 or the different penalties that exists or also the annex to the report, and the expected impact of the recommendation, the working group expects greater visibility and user friendliness of support and help options, both on the ICANN website and the homepage of ICANN, of the registrars and retailers.

And finally - I'm sorry that was still - I'm so sorry, that was still part of the charter question D. The penalties are - the recommendations are here on Page 38. The working group expects to see a general discontinuation of policy-specific sanctions. The group pointed out on the report that policy violations and sanctions should be dealt with contractually under the RAAs, as is the case at the moment, and there shouldn't be different penalties for different violations across various policies to increase consistency.

And then obviously the final set of questions, F, about the need or non-need to eliminate FLAs. The group at the moment's recommending the FLA is maintained for a variety of reasons despite some counterarguments as well and I also have elaborated more on these than I had previously on the observations. The impact obviously expects to see - I'm sorry, the working

group - on Page 40, the working group expects to see an improve of the ability of the FLA through creative rights and permission options for FLAs.

As you'll remember, we recommend that it should not just be able to be done by e-mail but also through interactive website and/or SMS. So these are basically the expected implications of the recommendations that I've added to the report. Apart from that, the report is reflective of the work that's been done by the group so far. It's obviously based on the initial report. The annexes have all been added to this document, and some of the discussion items on observations I obviously wasn't going to elaborate on.

So this I guess brings us to how to proceed from here. Although James is not on the call, I feel that the - if he wanted to submit the final report in time for the September meeting of the GNSO council, I believe our deadline is the 15th of September, so it's still just quite around the corner but it is approaching. And I guess what I'd like to get some feedback from you at this point might be how to proceed with a consensus called on the various recommendations and obviously then the report at the end as well.

As I said earlier, we have six charter questions and we don't have to make the decision on this obviously today, I'm just pointing out, you know, what the issues are then we can go back and decide on this obviously next week. Then we have six charter questions but we have 18 recommendations so there's the possibility of doing I suppose a quicker way of having a consensus through a (unintelligible) would be the easiest on each of the charter questions comprising all of the recommendations that go with that question or that would make it six consensus calls if you want or to split them up into 18 and have one each of those various recommendations.

And then the question is also, you know, what timeframe, how long would the group need to go through the recommendations for the last time, speak to the respective stakeholder groups and constituencies maybe to get feedback there as well before we make the final call. And I believe that is it. Obviously

other than that, there's the annexes, the literal definitions and the use cases that might need a second going over. I don't know, again, I think it might be more productive at this point if this was done off the call as much as possible.

I would very much encourage members of the group to use the document that I've sent around, and I'm happy to send an updated version from today to the group, and work off their - put comments into the group - into the document, I'm sorry, and then send it back. I think it might be easier to use comments rather than track changes because if I then collate everything, it'll be more clear with comments rather than track changes.

And so then next week when James is back on we can see how he sees to proceed. As I said, the question of how we're going to a consensus call will also come up, and you can start thinking about that already. I believe that's it from me for the time being unless I've overlooked something. Holly's got her hand up, and over to you Holly.

Holly Raiche: Yes, can we go back to the very first page of text onscreen?

Lars Hoffman: Do you have the actual page number by any chance?

Holly Raiche: One. One or two.

Lars Hoffman: Let me just get...Can you...?

Holly Raiche: Okay.

Lars Hoffman: So this is page - this is the cover page obviously. Table of contents, executive summary.

Holly Raiche: Executive summary. Yes, okay.

Lars Hoffman: I'm sorry, can I just...? Holly, very briefly before you start, the executive summary, and I pointed this out as well, there's the recommendation section, 1.3, has not been updated yet because I figure the recommendations they are still the ones that go into the initial report almost completely copied and have not been updated since what we discussed in there, because I figure this is just a repetition of what we do further down in the report. Because there's probably more changes coming along the way, I didn't want to have to update that as I go along and maybe overlook something.

And so 1.3 is basically not relevant at the moment. The recommendations as they stand are in 5.2. Let me just scroll down for a second. Here we go, on Page 27. This is where start and these are reflective of what we actually discussed. I'm sorry for the confusion.

Holly Raiche: All right. That's okay. Thanks for the explanation.

Lars Hoffman: Yes, I'm sorry. Great. If there's no hands I'd take that as an agreement that you're happy with how things stand at the moment. Obviously I can only encourage you to go back and read through the recommendations and what would be the expected impact and to submit any changes or (unintelligible). And you can also -- this is for (Arthur) or for anyone else who's got any problem with the - adding changes to the document -- you know, there's no problem if you're just writing the text down and telling me which page and which paragraph it's related to and I will then insert into the master copy as I mentioned and send it out to the group. There's no problem for that either. Yes is there anything else anybody would like to raise at this point? Otherwise you get more like 17 minutes of your day back.

(Arthur Schlumberg): Okay, Lars, can I make short comment? (Arthur Schlumberg) here.

Lars Hoffman: Of course. Go ahead, (Arthur).

(Arthur Schlumberg): Hi. So as you said, we may still have differences of opinion on the various expected impacts, so I'll be sure to include to them. I think the current expected impacts are quite positive in their estimations. Or perhaps it is my Dutch background, but I try to look at these changes as pragmatic as possible and as realistic possible, and I do not think that these recommendations will have a strong impact right now. But perhaps from studying the entire report, I will change my mind and concur with the rest.

I am also seriously considering a minority report on some of these issues, as I think that some of the contributions that have been made to this document, and I have said this before, were made based on subjective experience and personal anecdotes, where I think a more objective summary would present the GNSO council a more balanced view than what is sometimes -- I'm not saying the entire report is -- but what is sometimes observed in the wording of the reports. Certain solutions may be favored and such words are included in the report. I'm not sure if that would present the most balanced view.

Other than that, I will submit my specific comments and specific reactions via comments or via e-mail or via track changes. Probably the best would be via comments or e-mail, as the track changes would become messy. Thank you.

Lars Hoffman: Thank you, (Arthur). Yes I agree, the track changes can become quite messy when tracking several versions but I will definitely do it through comments in the document or as I said, you can also type it in the e-mail body and then I will implement or insert into the text as you see fit.

(Arthur), obviously just very briefly get back on that - you're obviously free to submit a minority report and I think it's much appreciated that you're giving the group a head's up. And obviously if there's any wording that you think can and should be changed in order to reflect better than you think with the discussion of the group, you're also very welcome to add this to this report as it stands, right, so you don't have to feel like there's nothing that can be

changed here and anything that you would like to have changed needs to go into the minority report. That's not the case.

Having said that, you know, whatever you decide to change or suggest for changes for this report obviously does not take away your right to submit a minority report alone or with others as well. Is there anybody else who at this point likes to add the discussion? No.

Okay. Well in that case, thank you very much, everybody. You get 13 minutes back after all. I suspect we're back on track next week. James should be back to running the call and I can, as I said, just encourage you to go through the report, submit changes as you see fit, and we'll take it from the next week. We have about four or five meetings until we have to submit the report if we want the GNSO council to have it by September. Otherwise it will be at the (unintelligible) meeting presumed in L.A. Thank you very much and I'll speak to you all next week.

Woman: Thank you, Lars.

Lars Hoffman: (Carrie), you can end the recording.

Woman: Okay, thank you.

Man: Okay, bye.

Man: Thanks, Lars. Well done.

Woman: Stop the recording.

END