ICANN
Transcription
IRTP Part D Working Group meeting
Monday 22 September 2014 at 16:00 UTC

Note: The following is the output of transcribing from an audio recording of IRTP Part D Working Group call on the Monday 22 September 2014 at 16:00 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-20140922-en.mp3
On page: http://gnso.icann.org/calendar/#sep

Attendees:
Barbara Knight – RySG
Graeme Bunton – RrSG
Arthur Zonnenberg – RrSG
James Bladel – RrSG
Angie Graves- BC
Bob Mountain - RrSG
Kristine Dorrain – National Arbitration Forum

Apologies:
Paul Diaz – RySG
Holly Raiche – ALAC
Alan Greenberg – ALAC
Avri Doria – NCSG

ICANN staff:
Amy Bivins
Marika Konings
Lars Hoffmann
Steve Chan
Berry Cobb
Nathalie Peregrine

Coordinator: Recordings have now started; please proceed.

Nathalie Peregrine: Thank you very much, (Damon). Good morning, good afternoon, good evening everybody. And welcome to the IRTP-D Working Group call on the 22nd of September, 2014.

On the call today we have James Bladel, Barbara Knight, Graeme Bunton and Bob Mountain. We have apologies from Avri Doria, Holly Raiche, Paul Diaz and Alan Greenberg. And from staff we have Lars Hoffman, Berry Cobb, Steve Chan, Amy Bivins and myself, Nathalie Peregrine.

I'd like to remind you all to please state your name before speaking for transcription purposes. Thank you ever so much and over to you, James.

James Bladel: Thank you, Nathalie. And welcome, everyone. This is our last IRTP-D Working Group meeting on 22nd of September, 2014. Does anyone have any updates to their Statement of Interest please raise your hand at this time.

Okay seeing none. There is only one agenda item today which is to review the final changes to our final report, make sure that we have established consensus level on all of their recommendations and finalized our report for submission. And this has to be done today, today is our final opportunity to close this report.

So if we could please, Lars, could you take us to the first change and we will walk through these in order, in sequence and we will knock them down. So, first change is - thank you, Lars.

I believe our first change is over here on Page 17 and if the item in blue. Lars, can you help reminds me, is this because of the change that we made last week in our discussion about the panel versus the provider?

Lars Hoffman: It's actually - yeah, so we talked about this last week but it's also something that when we went with Marika and Berry through the report we thought that this might help with the definition of exceptional cases and who determines

what an exceptional case is. So we thought, because it's part of the explanation to the recommendation, rather than the bolded text, it would be acceptable to the group.

It basically just says that we're saying that the information of the cases should be - of the TDRP cases should be published except in exceptional cases. And then exception is sought by the DRP, so by the dispute resolution provider, regarding the ICANN contractual compliance noted to have somebody else in there who can monitor that. But there's the standard of when the information are withheld and when not.

James Bladel: Okay thank you Lars. As Kristine notes the acronym doesn't line up with the letters; it should be DRP, not DPR.

Lars Hoffman: Noted. I'll change that immediately.

James Bladel: Yes. And then the second question I guess - and I don't want to belabor this was because we have a lot to do but the second question is why ICANN compliance and why would ICANN compliance ever reject such a request if it was coming from a dispute resolution provider? Do we want to even, you know, open that can of worms, you know, in the meat of a recommendation? I would think not but I would say - are we sufficiently covered by saying, "in exceptional cases."

Lars Hoffman: I expect the - sorry, James, this is Lars - is that compliance or that, you know, somebody come back and it's like who determines what exceptional cases are. And if we start to list the exceptional cases obviously then you have a definite list and there is additional possibilities that might - we might run into problems there as well.

((Crosstalk))

James Bladel: Okay, so the key thing here is that the request is raised by the - a DRP. Kristine, go ahead.

Kristine Dorrain: Hi, this is Kristine from National Arbitration Forum for the record. I wanted to just point out that UDRP it basically - what it comes down to is that the request has to be made before the decision is published. That's why the arbitrator makes the decision.

Once the decision is published you can't come back, you know, six months or a year or five years later and say, okay guess what? I want that taken down because it's now, you know, just irritating me that it's posted.

And I deal with no small number of those questions for UDRP on a weekly basis. Now granted TDRP is not an incredibly busy, if you will, policy so it may not be quite so much.

But I would be curious as to whether you are aware of exactly how much email traffic and drama this could open up for ICANN compliance by saying, you know, you could - you're going to drag ICANN compliance into whether or not it should be published online which presumably then means that the questions will come in after the fact.

So after the decision was already published do parties have a recourse to badger and complain and whine and moan and have a decision taken down. And the answer I would say, for the UDRP, is no. And the time to ask that would have been upfront when the case is being filed.

So I just don't want to make a bunch more work for anybody. That would be just my suggestion.

James Bladel: Thanks, Kristine. I think that that is important because I don't think any of us - or at least I wasn't - certainly wasn't aware that all that was going on. I think Lars has a suggestion to fix this. Lars, go ahead.

Lars Hoffman: Yeah thank you James. This is Lars. I added to the chat a possibility so we could strike the blue text and could add based on what Kristine just said, "except in exceptional cases" and then brackets maybe in line with the current UDRP language or procedure or - I can think of anything right now. But basically just refer to the UDRP because it seems to be working there and so we could - and that's essentially where we took this from If I remember correctly.

James Bladel: So I would put a little meat around that and say something like, "In keeping with, you know, practices currently, you know, currently employed in the UDRP," or something like this. I see a lot of traffic in the chat.

You know, this is one of several things that we need to go through today, folks, so let's try to drive towards a conclusion and not open more - go ahead, I think Berry, did you want to - okay, I see a lot of traffic in the chat here so I'm just trying to catch up.

Okay so Berry's noting here - in what context does compliance ever monitor DRPs? If not is this really going to be a consensus policy? You know, I don't know. I think that personally ICANN compliance monitors their contracts with registries and registrars.

I don't know what sort of agreements they have with dispute resolution providers and what sort of compliance activities take place with those providers, I really don't know. I don't know that building it into this policy recommendation helps or hurts.

I think Kristine is saying that she likes the - and I believe - or Kristine might be referring back to the clumsy language that I tried to insert because that way if the UDRP review changes its practices then this will follow suit and then they would marry that. So, let's see, Lars, I'm reading your text.

"Outcomes of all rulings by dispute resolution providers, DRP, should be published on provider's Website except in exceptional cases in keeping with practices currently employed in the UDRP."

And that I think is in keeping with what I was looking for. Kristine, I don't know if that is - meets your requests - or meets your objections there. And okay I've got a green checkmark from Barbara and green from Kristine. Okay that's good. And Berry is saying we can take this up in the IRT as well and I think that is definitely the case here because I think we're starting to get into the meat and potatoes of - or I'm sorry, the implementation details.

So okay so I think that your proposed language, Lars, unless anyone has any objections we will replace the blue text with that language and then we can move on to the next change.

Lars, go ahead.

Lars Hoffman: Thanks, James. Sorry, I didn't sync, and I apologize. We're on Page 21. And based on our phone call last week and it's just the adding at the end there in bold that the Recommendation 6 at the bottom (semicode) on the IRTP and TDRP should be amended accordingly.

James Bladel: Yes, and I think that is correct. And that was per our conversation last week, right?

Lars Hoffman: Yes, absolutely.

James Bladel: Where we noted that those two items were not specifically mentioned in the list of reasons for denial.

Lars Hoffman: Yeah, absolutely correct.

James Bladel: Okay. So any objections to that? Lars, is that - you ready to go with the next one?

Lars Hoffman: I'm sorry, yeah absolutely.

James Bladel: Okay. All right so I don't see any objections here. The next one is on Page 22, Section 4.2.2.4. "Expected impacts. The working group expects that while a TDRP is pending this recommendation will reduce the effectiveness and the practice of domain name hopping as a component of fraudulent transfers. The locking mechanism should include a server prohibited status added by the registry and for a client prohibited status added by the registrar to stop subsequent transfers."

Now the reason we were changing this, if memory serves, is that we were trying to get rid of the idea that this would deter the practice. I don't think that we were looking into a crystal ball and predicting that the practice would go away but what we were instead saying is that we expect the practice will become less effective at evading dispute proceedings.

So I think that that is the reason for this change is there were some objections from the group that we should not predict whether or not this would be a deterrent but we should instead change it to reflect its efficacy as a practice. So any objections to this change?

Okay seeing none we can move on to the next one. And while you pull that up, Lars, I will point out that Kristine just made a note in the chat about, you know, possibly some future work that ICANN could undertake to - in the management of its dispute resolution providers but certainly kind of a tangent to our work.

Okay, so the next change is on Page 31, Recommendation 15. And I'll read the entire thing. "As a guidance to future policy development processes this working group recommends that the policy specific sanctions be avoided

wherever possible, rather sanctions should be consistent throughout policies and be governed by applicable provisions within the RAA."

I think the change here is just - well help me, Lars. How did we - was this part of the objections that we're receiving via Barbara from the registries?

Lars Hoffman: Yes absolutely. This is - I believe - takes Barbara's and through last week.

James Bladel: Okay. And specifically, Barbara, can you walk me through why the old language was problematic and why this - why this is more palatable to the registries?

Barbara Knight: Thank you, James. This is Barbara for the record. I think that what we were talking about - I think these changes are what we were actually discussing on the call last week, not the other provisions that were - or the other discussion that was ensuing on the Registry Stakeholder Group list.

((Crosstalk))

James Bladel: Apologies for...

Barbara Knight: That's okay.

James Bladel: ...not having - yeah. Okay so I think what we were saying here is that, you know, it looks like the meat of this addition is that we said "governed by the applicable provisions" within the RAA as opposed to saying "be a part of the RAA." I think that is probably a clarification at this point.

I don't see that as being any sort of a problematic change. But if I'm missing something please don't be shy, raise your hand and let me know. Okay. I don't see anyone in the queue here so I think that we're on the right track with this change.

Okay the next change is, "The expected impacts will result in improved consistency and transparency of the penalty structure and clear understanding of policy enforcement mechanisms for contracted parties." I don't think there's any concern in adding that but I'll wait and see if there are any objections.

Okay so, Lars, if you could take us to the next change please. It's in the middle of Page 33 where we are trying to - I recall here we're trying to establish a sense of urgency for further review and gathering data. So, "In order to prevent delay for future review it is necessary to start gathering related metrics as soon as possible which are clarified in 4.2.7.1 observations."

I think that's fine. I guess personal preference I would leave off the word "observation" but that's just my personal thing. Anyone have any concerns or objections? I think, okay great.

So then the next change we can move a little further. I see - oh it's a green from Arthur. I think that - yes, so here we were talking about making some changes in just the way that these different metrics could be defined.

We were talking about some of the concerns that - we didn't want to get into the situation where we were counting emails or counting phone calls and we certainly didn't want to be overly prescriptive on this so I think that we hit on the phrase last week called "incidents or communications."

And I think that that is a much cleaner description or way of tracking how communications occur between registrars and registrants who are requesting support or abandoning transfers or, you know, claiming their hijacking or whatever. So I think that as long as we use that phrase thoroughly throughout this section we should be fine. Arthur, go ahead.

Arthur Zonnenberg: Hi, James. This is Arthur Zonnenberg here. Just a short question because of the IRTP-C implementation discussion that we are having whether or not we could include metrics to be started or gathered for changes of registrant or changes of control or changes of whatever we're going to call it. But, yeah, just some kind of measurement of the affect of the policy as a whole versus parts of the policy or just one part of the policy; I'm interested what you have - what your ideas are on that.

Okay so here's what I'm thinking is that we could probably - we should probably add something in that because IRTP-C will presumably be live and in production by the time we get to some of these data metrics gathering.

So perhaps what we could say here is on the third bullet point where we say, "The number of incidents or communications where registrars are contracted by registrants for transfer support," we could say something along the lines of, "inter registrar or change of registrant," or something like, "including change of registrant function."

And I think that if we can add that - well then we would have to add it to several bullets. So here's what I'm thinking is that we would instead put it, you know, somewhere after the bullet point about disputes between registrars and say something like a new bullet and say, "The number of incidents or communications related to above where change of registrant policy is - or change of registrant procedure is begin disputed."

I don't know, Lars, if you can catch that. I think it is a good thing to capture this new policy that is not currently in effect but presumably will be either by the time this is published or by the time we start gathering this data so we should definitely make sure that that is included in this list.

Any objections to that? I see a green checkmark from Arthur. Anyone have any concerns about that addition? Of course if IRTP-C is still undeployed then that would be kind of irrelevant so.

Okay I don't think there's any other issues with this list. Can we move to the next change?

Lars Hoffman: James, this is Lars.

James Bladel: Yes, I see your...

((Crosstalk))

Lars Hoffman: Sorry, yeah, just to - is the language okay for you? I just copy and pasted what I added in the report.

James Bladel: The number of incidents or communications related to...

Lars Hoffman: No, that's not correct.

James Bladel: I would say to transfers - to disputes involving a change of registrant, how about that? Otherwise I think you got it.

Lars Hoffman: Okay I've got it. Thanks.

James Bladel: Okay, thank you. Yes, I realize we're going. Okay, Arthur is saying that would be incomplete. Are you - yeah, Arthur, go ahead.

Arthur Zonnenberg: Yeah, James, just to clarify about the metrics. In addition to possible disputes about a change of registrant I think it would also be advisable to measure the number of abandoned changes of registrant or changes of control.

It would be advisable to measure the number of complaints about the policy in general whether or not end users find it confusing or not, whether or not it is user-friendly, there it is, that word again, where we define user-friendliness

as allowing a user to succeed. I think it's important to measure not just the TDRP - TDRP - the official TDRPs but to measure the complaints and abandoned changes of registrants as well.

James Bladel: Okay so then we would say - the second bullet that Lars has, "The number of incidents or communications related to disputes," comma, "complaints - disputes or complaints," or we could say, "complaints or disputes involving a change of registrants." I think that captures what you're looking for.

Arthur Zonnenberg: And that would capture the first two points but it would not yet capture the abandoned cases.

James Bladel: Well, I don't know how to - okay so, you know, let's keep in mind that this is a - this is not a limiting list so we can certainly add that in; we're just trying to be helpful and leave some bread crumbs for the next group that's going to pick up this work.

So I, you know, I would say something like "support issues, complaints or disputes," and that should cast a wide enough net to I think cover abandonments or, you know, any other types of problems that are encountered by - through the use of this policy. We're just sufficiently generic to say we need to capture incident statistics for all of those. I think that should cover it.

Lars, did you get that?

Lars Hoffman: James, yes, I believe I did. Let me just copy and paste what I've - so there is what I added, "complaints or disputes involving changes of registrant."

James Bladel: I think that's probably sufficient. We don't want to overload the sentence but it's fine. Okay so what's next? Thank you, Arthur, good add. Let's go to the next change, Lars.

Lars Hoffman: Yeah, so it's what we discussed on the call last week, Recommendation 18.

James Bladel: Yes, so Recommendation - oh, I see it.

Lars Hoffman: Sorry, and I see there's also an ending on the 17 Recommendation.

James Bladel: Right. And this is part of what we were discussing last week. "Should convene a panel to collect, discuss and analyze relevant data to determine whether these enhancements have improved the IRTP process and dispute mechanisms and identify possible remaining shortcomings," that's the call for future work including data collection that we were referring to in the previous section. So I think that's fine.

The next change is Recommendation 18, "To facilitate the gathering of relevant data the implementation review team should closely liaise with relevant ICANN departments to ensure an immediate consistent supply of relevant data."

What are we trying to say here? That, I mean, what did we say previously? Did we say something about working with Compliance and we don't want to be too specific on that or? I'm trying to remember why we changed this. "To facilitate gathering of the data."

Lars Hoffman: I think it was - there was a worry - sorry, James, this is Lars, if I may?

James Bladel: Yeah, please, please, someone, anyone, help me out.

Lars Hoffman: I think this addressed the concern that I suppose contracted parties that have access to this information to encourage them to start gathering these as soon as possible in order to have a big enough database to then draw on once the future policy review is taking - a future policy review takes place.

And they obviously have to give the data somewhere is the idea or submit it somewhere and so a relevant ICANN department I presume it's the GDD department with which they liaise in the first place. They would then coordinate that they have the correct numbers from the various parties that they get the needed data across the various registrars and registries, I think that's where it comes from.

James Bladel: Okay. So I would recommend that we make some changes here and hopefully just more readability changes and there's material that - I would say, "closely liaise with ICANN staff," and taking out "relevant departments" and just say, "work with ICANN staff to assure," I wouldn't say "immediate" I would "prompt supply of relevant data - prompt access to the required data," something like that.

I don't like the word "immediate" because that, to me, is too restrictive and it may take, you know, three days or something and can have arguments about whether or not that's immediate and I think that if you say "departments" then that gets a little confusing so just saying, "ICANN staff" probably covers us for all of that.

And then the only other thing was just using "relevant data" twice in the same sentence seemed repetitive so.

Lars Hoffman: James, this is Lars, if I may?

James Bladel: Yes, Yes go ahead.

Lars Hoffman: Could you - because I was on the wrong page in the Word document, could you just rephrase the wording? I missed it I'm afraid.

James Bladel: Yes, something like "to facilitate the gathering of relevant data the implementation review team should closely liaise with ICANN staff to assure prompt access to necessary data."

Lars Hoffman: Thanks, James.

James Bladel: And I think Berry says that he's okay with "consistent and immediate" being removed. So yes.

Lars Hoffman: I pasted it into the chat as well to double check.

James Bladel: Yeah. Berry, I know that - Berry is noting that the main concern here is what happens if we don't get the data? There's nothing that forces contracted parties to provide it. Correct. And I don't think that we can, in this particular recommendation, you know, build in some obligation for them to provide it.

I think that is some work for the - not only the implementation review team of this working group but also the Data and Metrics Working Group that is also underway; I think those are - because, you know, it's the - it's not ICANN data. I think the - editorializing here a little bit. So we should probably drive forward here but I think that we have cleaned that up sufficiently.

Arthur.

Arthur Zonnenberg: Just to weigh in on there about the data not being mandatory, of course the gTLD registries can say the same thing that they are under contract by ICANN. However, I see much less reason for them to refuse disclosure of the data than perhaps for registrars.

If you look closely at the bullet points that we've discussed and the bullet points that we are suggesting a lot of them can actually be retrieved by the registry with or without the consent of the registrar because they are submitted to the registry. So the registry will always have access to this data.

And I don't see why a registry would not be interested in improving the policy if it is to their own advantage, you know, it will create less problems and will

show certain things that ICANN needs or that working groups needs or that PDP needs in order to improve policy.

James Bladel: Thanks, Arthur. I think it is worth noting that there are multiple sources for some of these data points. Some of them may be exclusive to registries or registrars but some of them are available for multiple sources. Okay and Barbara has a green checkmark. Can we move to the next change please, Lars?

Lars Hoffman: There is...

((Crosstalk))

James Bladel: Halfway - halfway through our call here.

Lars Hoffman: The next change is in the annex and for reasons that only Adobe knows I have to load up another document, just.

James Bladel: All right thank you. Yes, yes we had to clean up this chart because of the acknowledgement that the dispute mechanism that we were referring to in IRTP-C, change of registrant, was referring back to this so we had to - oh we have it on - thanks, so we can zoom it - we have individual zoom controls.

So it looks like here we had noted that ICANN policy does not apply. And I believe it is Item Number 9 is the first - the first page here on Page 41. I don't see the significant change here.

And then we noted the same thing in Number 12 is where we removed the inter registrant transfer from IRTP-C and instead note "ICANN policy does not apply, however the interaction of the IRTP may be discussed as part of the ongoing PPSAI PDP Working Group, this is - transfers when a privacy proxy service are - privacy proxy service are use." And I think we are working in

that group to also examine the function of transfers when one or both registrars have privacy services.

We went through this last week so I'm kind of going quickly because if there are any concerns please let me know. And then that's - I believe that's it for the use cases in Annex C. Were there any other changes in Annex C, Lars?

Lars Hoffman: This is Lars. No, James, I think that's it. I think these were the changes from last week. There was - the point of it be that we might have gone over - that we talked with Barbara today on lists, that was part of the bullet points where we added - I'm not sure, did we go through that earlier?

James Bladel: No, I think we should now circle back to the issues that were raised by the Registries. And not to put Barbara on the spot here but if she can kind of give us an update on what their discussions were on their list and whether or not we still - the full report. I thought that from Barbara's last message that the group did finally come around to saying that they supported the recommendations of our report. But, Barbara, can you kind of give us an update on your conversations this week?

Barbara Knight: Sure. Thank you, James. This is Barbara. So as I mentioned, there were some items that had come up relating to the fifth recommendation which is relating to extending the statute of limitations from 6 months to 12 months.

Ultimately we came around to the fact that, you know, yeah, people can live with it but just as we were discussing in our some of our previous call, you know, having data points to actually say that, yes, we feel like this is going to be - in that particular case enhance the registrant experience was the - with the whole dispute process. The person that raised it just felt that there wasn't rally compelling evidence to say that, yeah, that, you know, that would be the case.

So, the addition that Lars had suggested, as far as adding that as one of the data points to collect, going forward, you know, I think it resolves - or at least, you know, some of the concern there. I mean, I think it's recognized that, you know, throughout the course of the deliberations that we've had even as a working group, you know, the lack of data has been a bit of a challenge to say the least.

So I think that we're okay there. I know that, you know, the thought was that - or at least the impression that we got was that, you know, that whole particular recommendation really was to try to balance, you know, the registrant rights with, you know, the, you know, legal clarity and it was just also felt and put forward in the Registry Stakeholder Group that, you know, perhaps by extending this from 6 to 12 months that, you know, obviously would have a, you know, more of a negative impact on, you know, legal clarity or certainty if you will.

So those were kind of the topics that were discussed there. You know, to the extent that, you know, we would have data points in the future to kind of determine whether or not that particular, you know, making that modification would I guess enhance that and not, you know, really be too detrimental from the legal certainty perspective than I think that, you know, people could be pretty much on board with it.

The other item that was under discussion was relating to the recommendation for 15 and that was relating to the policy specific sanctions. And the person who, you know, had some concerns there, you know, had actually also asked for some additional input from the Registry Stakeholder Group. And unfortunately time was the, you know, not able to really give us the opportunity to fully investigate that further.

And it may very well be that, you know, the person that had raised it thought that, you know, by virtue of the fact that there were now specific sanctions, if you will, that were in the RAA particularly, that, you know, it may make sense

to actually point back to specific sanctions versus leaving it up to, you know, ICANN staff to determine, you know, what would be the appropriate enforcement.

But I think - there was some discussion there. I think that, you know, at the end of the day the person kind of came back and said, you know, I'm a little bit of a novice at this so maybe it doesn't make sense to do that so I think if there are any concerns they may very well, you know, voice them when the GNSO actually is evaluating the report but they didn't feel as though it was necessary to hold up the report for that particular item.

James Bladel: Okay thanks, Barbara. That's - really appreciate, by the way, that you were the spokesperson within your stakeholder group on these issues that coming up under IRTP-D.

Just a couple of quick thoughts and comments - and I do appreciate your diplomacy in getting their support regardless of maybe some concerns or reluctance for some of these.

I think that we agreed, during our deliberations, that extending the statute of limitations from 6 months to 12 months could have an impact. I think that I also was personally not very comfortable with the idea that we would make that change without some statistics. But as I think we've all seen there's so very few uses of this policy and these disputes that it was very difficult to generate any meaningful statistics on when they were used.

And so then the question of whether or not changing a policy that's not used within 6 months to a policy that's not used within 12 months where that made any sort of material change.

I think if I recall, was advocated by the - by some of the other groups, some of the folks who are not participating on today's call were pointing out that by extending it to one year you at least gave the registrant the opportunity to

recognize that they were not receiving Whois review reminder emails. And that was the reason for extending it from 6 months to a year. We acknowledged our lack of data but we were trying to catch that which, you know, that scenario which admittedly could be an outlier.

As far as the - oh, Barbara, go ahead.

Barbara Knight: Thank you, James. It's Barbara again. So I think we just also need to be careful - and this is not one of the items that came up - relative to data retention.

And, you know, by extending this making certain that the data retention - and I have had an opportunity to take a look, you know, at what it indicates in the particular Registrar Accreditation Agreement. And I have not even had an opportunity to take a look at, you know, what the data retention requirements are in the Registry Agreement.

But, you know, by extending it to 12 months I know that there are some pieces of information that registries and perhaps registrars as well are only required to retain for up to a 12-month period.

And so my question is is, you know, if we do extend it to that 12 months then that may very well have an impact on how long registries and registrars - probably registrars more closely because they'll have more of the information relative to FOAs and what have you - would have to retain specific information in order to be able to even address any disputes that could be raised in that 12-month period.

So, you know, this is just another food for thought. I know that in one of the emails that you'd sent out earlier today, James, that, you know, there was also, you know, the proposal to even change it to 15 months. And I think we're really getting into some shaky ground then as far as even just having data to be able to evaluate the various disputes that could be raised.

James Bladel: Thanks, Barbara. And that's an excellent point particularly given that so many registrars are requesting and some are receiving exceptions to the data retention specifications because their belief or their opinion that - the position that puts them in violation with national laws.

And I think that it's an interesting question because the registrar could consider that when a domain name transfers away that they are no longer allowed to retain that data or may only retain it for specific purposes and that this requirement could also put them at odds with national law. So because they no longer have a - well, I'm not an EU expert here but something about a legitimate business need to retain that data for this time period.

So we'll have to take a look at that and that might be something that we want to (unintelligible) here for the implementation review team. I see a green checkmark from Arthur but I think he also wanted to weigh in this. Arthur, go ahead.

Arthur Zonnenberg: Yeah, James. You pretty much stole my thunder. I was just going to say to Barbara Knight that I - in reviewing the various privacy laws, even worldwide or with the various ICANN waivers being requested, I did not notice a national law limiting the data retention to only 6 months.

The lowest number I've seen is 12 months. But as soon as one case exists or as soon as one national law exists that limits it to 6 months then we would already need waivers for this part of the policy as to not be in breach by registrars of those national laws indeed.

James Bladel: Yeah, thanks Arthur. I think that, yeah, that's a good point. And not the kind of thing that's limited to one country or one region but as soon as it happens it starts to affect us all. So something to keep in mind while ICANN develops more and more policies about data collection and retention and national legislative efforts are pulling somewhere in the other direction. Registrars

certainly don't want their contracts to be illegal. So okay so thank you, Barbara, for raising those.

I did want to just weigh in on one other bit here, the concern about the policy-specific sanctions. You know, my only issue there is that - and I'm just kind of weighing in individually here - is that the RAA could be amended so pointing to a specific section or naming it specifically would, you know, be kind of chasing a moving target.

The sanctions are fairly clearly spelled out as far as what ICANN Compliance can do to us in terms of, you know, breach and suspension and nonrenewal and termination and all those other things. I think that, you know, we are very reluctant to give ICANN Compliance the free rein on that but fortunately they've been very collaborative in working with the registrars to develop their escalation process there.

So I think - so I think we're good for now but it is, I think, something to - it is a notable word of caution as we go forward that, you know, if the community decides that that whole compliance framework needs to be revamped then it probably should do that in a holistic manner and not necessarily in the framework of individual consensus policies.

So, that brings us to the end. And I wish there were fireworks and music and, you know, some kind of applause but it really is kind of these things tend to end with a whimper rather than a bang.

So I wanted to, first off, thank everyone for their hard work on this over the course of the last several months and year. Want to certainly thank ICANN staff. We really, really rely on them to the point where, you know, almost feel like we're abusing their time and their generosity of effort. But I know that they're just fantastic people. They've done really stand up jobs especially intercessionally between our meetings.

And I certainly want to make sure that we're also thankful to the folks that we don't see on the calls that are working at ICANN behind the scenes like Compliance when they put together their presentation and the SSAC and all the other different groups that are contributing their expertise and their help for this as well as all the folks in the constituencies that don't appear regularly on these calls but have certainly been instrumental in shaping the outcome.

And our former chair - former co chair, Mikey, who got us quite a bit of the way before he decided to retire.

So where do we go from here? This final report, I believe now, will probably be circulated on the list one more time. It is not open for material changes. It is, if you see a typo, if you see a section number that's wrong, if they spelled your name wrong, if they have, you know, something like along those lines that is really what we need to correct at this point.

And I would hope that Lars can probably have that circulated here in the next day or two. They have to - this has to be submitted, I believe, by - we'll probably say by the end of the day tomorrow in order to be considered by the GNSO Council.

I suspect that it will pass or be deferred because a lot of times Council doesn't vote on things when they come up for the first time. But so if that occurs then please don't take that as a, you know, as any kind of an indication of the level of support, it's just more of a procedural thing.

And I would hopefully also ask that folks please consider joining the implementation review team that will undoubtedly spring up from this working group once it is adopted by the Council and the Board. There will be a call for volunteers for that group to help put these recommendations into practice so please watch for that as well.

So anyway if there are no other questions we can adjourn for today. We can take this hour out of your Monday calendar and use it to find something that's perhaps a little bit more enjoyable for you to do. And I hope to see everyone in Los Angeles as well.

So if there are no other - oh, Lars, you have a question?

Lars Hoffman: No, James, just very quickly, I will send out a correct version with all the redlines implemented so no more track changes to be seen out to the list and then should we say 24 or 48 hours for typos etcetera?

James Bladel: That sounds perfect. If you want to send out a marked up version and a clean version that would be great.

Lars Hoffman: Okay. I'll do that. And then...

((Crosstalk))

James Bladel: Perfect, thank you.

Lars Hoffman: ...for your work that you've done as the chair for the group, it's been a pleasure. Thank you so much.

James Bladel: Thanks, Lars, that's - it's always been fun and one of my, you know, I'm very sad that one of my pet hobbies is now going to be coming to an end. So anyway that's it for today, folks and that's it for this group. And then, like I said, please watch for that on the list and hope to see everyone in Los Angeles.

Barbara Knight: Thanks, James. Thanks, everyone.

Lars Hoffman: Thanks, everybody.

Bob Mountain: Thanks, James. Thanks, all. Great work, everyone.

((Crosstalk))

Woman: Thank you.

Arthur Zonnenberg: A big thank you to all. Bye-bye.

James Bladel: Thanks everyone. Bye-bye.

Nathalie Peregrine: Thank you very much, (Damon), you may now stop the recordings. Have
                       a great day.

                              END