

**ICANN Transcription
Privacy and Proxy Services Accreditation Issues PDP WG
Tuesday 25 November 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 07 October 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-20141125-en.mp3>

On page:

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

Attendees:

Steve Metalitz - IPC
Graeme Bunton – RrSG
Frank Michlick – Individual
Don Blumenthal – RySG
Chris Pelling – RrSG
Justin Macy - BC
Susan Kawaguchi – BC
Kristina Rosette – IPC
Val Sherman – IPC
Volker Greimann - RrSG
Theo Geurts - RrSG
Stephanie Perrin - NCSG
David Cake - NCSG
Michele Neylon – RrSG
James Bladel – RrSG
Tatiana Khramtsova – RrSG
Griffin Barnett – IPC
Christian Dawson-ISPCP
Darcy Southwell – RrSG
Dick Leaning – no soi
Alex Deacon – IPC
Brian Winterfeldt – IPC
Carlton Samuels – ALAC
Kathy Kleiman – NCSG
Jim Bikoff – IPC

Paul McGrady – IPC
David Hughes – IPC
David Heasley - IPC

Apologies :

Sarah Wyld – RrSG
Holly Raiche – ALAC
Osvaldo Novoa – ISPCP
Phil Corwin – BC

ICANN staff:

Mary Wong
Marika Konings
Amy Bivins
Nathalie Peregrine
Terri Agnew

Nathalie Peregrine: Thank you ever so much, Andrei. Good morning, good afternoon, good evening, everybody, and welcome to the PPSAI call on 25 November 2014. On the call today we have Graeme Bunton, Tatyana Khramtsova, Chris Pelling, Darcy Southwell, Tim Geurts, (Bruce Bonnet), Frank Michlick, Todd Williams, John Holton, Steve Metalitz, James Bladel, Kathy Kleinman, Justin Macy, Val Sherman, Alex Deacon, Camille Stewart, Jim Bikoff, Roseanne Crawford, Osvaldo Novoa and Susan Kawaguchi.

We received apologies from Holly Raiche, Carlton Samuels, (Kristin Dawson), Michele Neylon, (Dick Leaning) and Don Blumenthal. And from staff we have (Amy Beams), Mary Wong and myself, Nathalie Peregrine. I'd like to remind you all to please state your names before speaking for transcription purposes. Thank you ever so and over to you, Steve.

Steve Metalitz: Thank you, Nathalie. This is Steve Metalitz and I'm chairing in Don's absence this morning. You've got the agenda on the screen and it was

sent out in advance. The first time is whether there are any updates to statements of interest. If there are, please feel to bring them forward now. Otherwise, we will move onto the next item which is to continue the review of the preliminary conclusions to date.

I think we got through, if I'm not mistaken, we got through sections A and B, pretty much on our last call. This again, we're kind of going through to see whether there're gaps that need to be filled before a draft report is prepared. So I think, unless there's any further comments of either of the A or B matters, we're ready to move onto to C, which basically deals with who can use or should there be restrictions on who can use a proxy or privacy service, an accredited proxy or privacy service.

And I think people can scroll down on their own, I believe, to this item which is on about the fourth page of the draft conclusions that are on your screen. And you'll see there the discussion that we had a couple months ago on this about the concerns about definitional issues and a differentiation between status and function.

I think it was generally agreed that the status of a registrant as a commercial organization, noncommercial organization or individual should be eligible to use a privacy or proxy service. But there was a split in our ranks about whether domain names that are actively being used for commercial transactions should be able to use these services.

I think the, if I can characterize it, I think the majority view was that that would be a difficult distinction to implement and a difficult line to draw. Others felt that this should be the principal that domain name couldn't

actively be used for commercial transactions and still be registered as proxy privacy registrations.

So I think that sums up where we are and I'm glad to open the floor. This really is about C1 and C2, which really overlap quite a bit, but I'm glad to open the floor to anyone who wishes to comment on our preliminary conclusion, suggest any changes or variations in that on this issue. I see James' hand. Does anybody else want to speak on this? Please raise your hand in the chat room or if you're not in - excuse me in the Abode room. If you're not there, just speak up and let me know you want to be...

Coordinator: The call's in progress. Let me join you in with an open line.

Steve Metalitz: Okay. James, go ahead.

James Bladel: Thanks, Steve. James speaking, for the transcript. And I guess on the question I'm looking for the preliminary conclusions for this section and I - well let me scroll up here. Maybe...

Steve Metalitz: I think its pages four and five of this document, starting on page four, anyway.

James Bladel: Right. Do we have a preliminary conclusion? Some of the other ones are in that gray box there but I don't see ones for this section.

Steve Metalitz: Yes I don't think - I guess there isn't anything there that says WG preliminary conclusion, which is how it's formatted on some of the other questions. But I think if you look at this, you could sort of see for example in the third paragraph, excuse me, yes the second paragraph,

WG agrees that the status of a registrant is a commercial organization, noncommercial organization or individual, et cetera. That probably should be labeled as a preliminary conclusion, I guess.

James Bladel: For the first - for C1 perhaps, but yes. Thanks.

Steve Metalitz: Mary had - maybe Mary can shed some light on this. Mary, go ahead.

Mary Wong: Thanks, Steve, and thanks for the question, James. This is Mary for the record. Yes we can certainly rephrase that part that Steve just noted, or other parts. I think what we wanted to bear in mind here is a couple of things. One that this was a fairly early preliminary conclusion and so as everyone will recall, this exercise that we're going through now is precisely for that purpose, not just to rephrase or add to whatever we have but perhaps for questions like this one that did create a significant difference of opinion between a majority and a minority in the working group, we want to be very careful early on the make sure that we captured the flavor of that discussion and distinction.

And so to the extent that there's any further agreement here or any sort of suggestions as to how do we make it more of a preliminary conclusion, if there is one, I think this is the purpose of the exercise.
Thanks, Steve.

Steve Metalitz: Thank you, Mary. And I would just add to that before turning to the queue that of course whatever's put out as a preliminary conclusion in the draft report, it's a draft report, it's open to public comment, so we will be soliciting public comment on all this.

So I have Kathy and then Kirin. If anybody else would like to get in the queue, you can raise your hand in Adobe. If you're not in Adobe, please speak up and say you would like to be in the queue. Kathy, go ahead.

Kathy Kleinman: Good morning, Steve. Can you hear me?

Steve Metalitz: I can hear you.

Kathy Kleinman: Great. And good morning all. One thing I would add here is, and forgive me if I missed it, is the - we discussed at some length the Whois review team discussions on this and I'd love to see a reference to it because I think it will help people who are reviewing this for the purpose of public comment later. But that the Whois review team expressly listed -- and we might want to include it, it's a small section -- legitimate uses by all types of users for proxy privacy services.

So for commercial kind of listing off, you know, new merger names, new product and service names which have to be obtained long before you ever launch them and you don't want to release those names for all sorts of commercial purposes, as well as noncommercial and individual uses. So I'd love to see - we talked about that paragraph of the Whois review team report a lot and I'd love to see at least a reference to it, if not the full listing, because we did discuss it. Thank you.

Steve Metalitz: Okay thank you. So that was a presentation issue for draft report. Let me go to Kirin and then Mary. Kirin?

Kirin Malancharuvil: Hi, Steve. Thanks. This is Kirin. Can you hear me?

Steve Metalitz: I can hear you.

Kirin Malancharuvil: Okay great. A couple of things. I think that way back when, when this was drafted I think a number of us objected to the characterization of the few as a minority of the working group members, so I would like us to discuss that now at this point. I think we dropped it with a view to go back to it at this time. I think this is the time to go back to it.

I know there was some resistance at the time, if I recall, to either taking an official vote and understanding who is where but, you know, I for one recall that there was a number of questions about what actually constituted minority, whether it was number of voices or whether we were going to parse it out based on stakeholder group and whatnot. So I would like to revisit that as a preliminary issue.

Secondly, I think that there's been a lot of discussion in the community since the drafting of this statement and I think we're at a point frankly on this where there's so much disagreement and each side is citing the law and citing, you know, previous work of review teams and drafting teams and PDPs, I think that this merits a legal review, frankly, a third party legal review so that, you know, I'm a lawyer I say one thing, you know, a lawyer for a registrar will say another thing, et cetera.

So I think that this is one of those issues that requires a third party or maybe ICANN legal counsel's eye on this question. And I think it is important enough to merit that. I don't think that this is a conclusion that we can come to, and clearly it addresses a legal issue about what obligations commercial entities have or do not as the case may be. Thank you.

Steve Metalitz: Okay. Thank you, Kirin. I see Mary has her hand up.

Mary Wong: Yes. Thanks, Steve. So my initial comment was going to be a follow up to Kathy's note that the presentation of the preliminary conclusions we obviously don't have the draft of the report yet, but one of the things we would want to do, and obviously the working group will review and comment and edit the draft that we first put together, one of the things we want to do is to make sure that each of the charter questions as well as the preliminary conclusions for each are tied back to a couple of things.

One is our actual charter, of course, but the other is the input from the various groups in the GNSO as well as the origin of each of these questions, including the Whois review team. So we probably want to spend a bit of time on the drafting and start thinking about how we make that clear. And one way we would do that, and this is the reason why we had those templates to begin with, so if the working group can go back if you're able to look at some of the templates for some of the conclusions that you think we need to work on and see if those are complete, that would be very helpful.

Then to follow up on Kirin's point, I guess this conclusion, which was written a while ago, as you and I both noted, Kirin, one of the things was that there was sense of the chairs that there is - that is where the distinction lay and the level, if you like, of agreement or lack thereof amongst the working group members. So I just wanted to point out? Yes, Steve?

Steve Metalitz: Go ahead. You dropped off there for a minute. So could you just repeat what you said about the distinction and what distinction you're referring to?

Mary Wong: Oh yes. The majority/minority distinction. So one question I did have was whether Kirin in suggesting legal review what specific aspect, is it the level of agreement or is it the recommendation itself? For the former, like I was saying earlier, it is - it was something that was the sense of the chairs, and that is one of the roles of the chairs, according to the working group guidelines.

And as everyone knows, while we don't do the formal consensus call now and while we certainly don't vote in this working group, a lot of these determinations are left to the discretion of the chairs and there are processes within the working group guidelines that allow for that to unfold, as well as for working group members to engage with the chairs on that point. So that's why I wanted that clarification, be if it is the level of agreement or lack thereof, then the guidelines do provide a process for that. Thanks, Steve.

Steve Metalitz: Kirin, do you want to respond to that question and then we'll move on in the queue?

Kirin Malancharuvil: Yes, sorry. Two separate issues. I'm calling for a legal review of the actual legal question, which is what are the rights and responsibilities of a commercial entity that is registered on the Internet. For example, I'm kind of referring back to like (Libby Baney) from forward strategy, excuse me. Her whitepaper, for example, on noncommercial use attempted to kind of sketch what the legal obligations may be. Now that was kind of rejected by some members of the community and

welcomed by others, and so that's why I'm suggesting, you know, a third party review because I think there are legal questions in the substance of the commercial, noncommercial distinction.

On the minority/majority issue, yes I do recall that the chair, I would say singular, Don, did have - did make some conclusions about what he saw as majority/minority, and I didn't agree with him then and I don't agree with him now. So I am, you know, calling for something more accurate. Thanks.

Steve Metalitz: Okay thanks, Kirin. Let me turn to James and then if anyone else wants to get into the queue either put up your hand in Adobe or speak up if you're not in Adobe. James, go ahead.

James Bladel: Thanks, Steve. James speaking, for the transcript. And just a couple of thoughts on where we're going here. I agree. I'm not comfortable with terms like majority or minority because I think that just, you know, begs folks to go and get more numbers, you know, let's go more folks on this side or that side to weigh in on this and, you know, maybe we can, you know, organize some grassroots efforts to see what folks think. And I just - I feel that's tempting to, you know, kind of flood comment periods and so I just don't know that there's a lot of value there. So I'm also uncomfortable with those terms.

And I think that, you know, if you consider - well something that's kind of always bothered me I think with working groups is the lack of agreement or lack of consensus is sometimes viewed as failure. And I don't think that that's necessarily the case. I think that because ICANN is a consensus-driven organization that achievement of consensus or

the failure to achieve consensus simply means that the status quo, warts and all, is preferable to some of the proposed alternatives.

So in that light, I don't know - I guess I'm not opposed to a legal review but I don't know that that's going to generate a significant amount of value or any kind of a breakthrough, because I suspect that a legal review will be done and within the context of all the different jurisdictions that apply. And I think it's one of reasons why ICANN and the policy that we develop is somewhat of a unique animal on this planet and there's not one legal framework or one law or one court that can settle some of these issues. They're very complex and they span the globe.

And I don't know that there's any kind of aha moment, unless we're missing something huge that's universal. But I think we probably would have stumbled upon it by now. So I guess I'm not entirely opposed to it, I just would question the overall value of that. You know, and I think as far as the substance of the question, and I think we have - I probably mentioned this in my previous comments on this issue is that commercial use of a domain name to me seems like the buying and selling a domain name on the aftermarket.

Otherwise, we're talking about commercial use of a website, which is related but different. It's a service that runs associated with a domain name. There's also a commercial use of transaction systems that run on websites like credit card processing, PayPal and digital currencies like Bitcoin.

So we just seem to be getting further and further removed from the core of what we're talking about here, which is the domain name itself

and that these other systems, whether it's the merchant systems or the credit card or some other digital payment system will have their own policies and legal framework associated with, you know, the who is eligible and what their rules and regulations and perhaps even legal requirements are to operate on a website associated with a domain name.

So I just wanted to put that out there that that's the status quo that we're living under now, and I think that if we're talking about disenfranchising a significant portion of a potential marketplace from a product or a service, I think we need to have a very, very compelling case for that. Thank you.

Steve Metalitz: Okay. Thank you, James. This is Steve. I'm just going to put myself in the queue for a moment here. In terms of the issue of the legal review, my recollection of this discussion, and again looking at the summary that is in front of us on pages four and five, is that a lot of the issues are not legal but practical.

Or put another way, I guess, Kirin, is it the view or those of - that of others who agree on this point that there's some binding legal obligation that ICANN has that if it allows proxy services to be made available to entities that are engaged in commercial transactions that it's in violation of some international legal principle. I guess - maybe that's James' point that to have that fleshed out.

But the other question then is well if that's the case, practically speaking, how would you implement that. And I think as I recall in our previous discussions, people raised a lot of questions about different types of activities that occur on sites to which domain names resolved,

for example, and a lot of questions about whether those would fall on one side or the other of the commercial transaction line, in other words practical questions about how it would be done.

So I just want to add that perspective and maybe those who support a legal review could clarify whether they think ICANN would be in violation of some clear legal obligation if it continued to allow privacy and proxy services to be used by such registrants, and second, how do we grapple with these practical problems that people raised, or maybe they aren't - maybe they're easily dealt with but I just wonder whether we need to get into that.

I'm going to call on (John) and then Susan and then Mary. (John), go ahead.

(John): Hey thank you, Steve. Can everybody hear me? Can you hear me okay?

Steve Metalitz: We hear you, (John).

(John): Oh great. Good morning and I just wanted to lean on a couple of points. I think, you know, there's probably a lot of us who, you know, speaking frankly we're not going to change each other's minds on this. A lot of us have talked about this for quite a while, this issue of commercial use of the domain name and I think there's, you know, probably a limit to constructive conversation and trying to change each other's minds on this.

And so, you know, I think from our perspective, what I'd be interested in and, you know, sort of I think echoing James' comments or at least

part of them is, you know, what is the best and most accurate way to describe sort of where we are as a group on this. And I think I'm not really sure that a lot more conversation or a lot more research is going to result in this group having sort of a different mix of opinions. And so, you know, unless there's something that I think none of have argued or none of us have thought of, my sense would be that, you know, we should try to come up with that description.

And part of the reason I wanted to get on the call this morning is just to make sure that, you know, whatever language we use, and I understand that there's official language and then nonofficial language, whether it's the versions of how we say, you know, majority or minority, and I think the Kirin's point I would definitely support sort of in some way taking a fresh look at where are we as a group.

Have any of the arguments, you know, shifted the mix at all, and it may not have, but, you know, in my perfect world I mean it seems to me reasonable to say that we have whether we use the world divergence or just sort of no consensus on this, and I agree with what James said is -- I think it was James, at least -- you know, sometimes working groups don't get to a unanimous decision and I think that's fine.

As to the question of a legal review, I guess I'm not totally opposed to it, but my sense would be, you know, what this group is trying to describe is not what is in the law, I think what we're trying to decide and recommend it what should be a policy. And I think that what the laws are in a particular country are only really relevant if for some reason what would be recommended as a policy would violate a law somewhere in some way that would end up being problematic.

And I think what (Libby)'s paper was really trying to do was answer a limited question of is there or is there not, you know, a right for an entity engaged in commercial activity to not disclose their identity. Because that was one of the points of argument that had been raised a few months ago as I recall. But unless there was something specific, you know, I think instead of going for more legal review, I would say let's try to come up with the accurate descriptor for section C and then move on.

Steve Metalitz: Okay. Thank you, (John). Susan?

Susan Kawaguchi: Can you hear me? I've never used Adobe Connect and not my cell phone.

Steve Metalitz: Yes I can hear you.

Susan Kawaguchi: Okay. Okay thanks. So, you know, this is a really hard nut to crack and I acknowledge that. But I do find it interesting, and I do object to some of what James said that, you know, commercial use and that definition does not apply to the domain name and only applies to the use of a domain name for a website. But I think we were all aligned that when there's a technical issue and the domain name is serving malware or, you know, or has been hacked or some of the content has changed that we all agree that, you know, there should be a swift contact method and you would know who you were dealing with.

But when it comes down to taking someone's money and doing this, you know, an individual Internet user using that - going to that domain name and using the services there and providing a lot of personal information to make a payment on a website, then it seems like we

can't come to an agreement on the fact that you should - an individual Internet user should know who they're dealing with and who's doing business. But it's okay if, from a technical point of view, if it's doing something suspicious that, you know, the technical community can get a hold of each other very quickly.

So I'm not sure that we're playing fair with the individual, and if you're not an insider that you can't get something resolved, you know. And yes, ICANN is not really in the business to review content but it's a domain name and the use of that domain name is completely intertwined. So I think we do need to take a harder look at this issue and not settle for a majority/minority position now. Things change. There's a lot more information out there and I would call, at the very least, for additional discussion, for this working group to have additional discussion at this point.

Steve Metalitz: Okay. Thank you, Susan. I see we have a couple - I see we have Mary in the queue, James and Kathy. So, Mary, go ahead.

Mary Wong: Thanks, Steve. Again, just following up on the question of the potential legal review, from the staff perspective, I think we feel we should let the working group know a couple of things. One is that it will obviously take a bit of time and certainly some resources on our side. So it may have an impact on the timing of our recommendations in a report at this stage.

Having said again I want to go back to the (unintelligible) earlier that this is heading up to what is a preliminary or an initial report. And that will be put out for public comment.

And so I wonder if that phase we can get some participants from working group members and their contacts as to, you know, how we might proceed.

And as (Susan) just noted there may be other information out there. Oh I'm sorry here I see that my audio is breaking up.

Steve why don't you go to James and I'll try and fix my audio? Oh now I'm better. Thanks (Val).

Steve Metalitz: You're better. And I think well I think we could hear this that this could have an impact on the timing and that this is certainly something that the working group could look at while the report is out for public comment for example.

Mary Wong: Yes and just one more point Steve really quickly. In terms of if we do want to refer this to legal if as other groups have done I think this is to echo what you said that we have to be very specific about the question and about what it is in terms of ICANN's obligations or, you know, legal compliance issues.

And I don't think that giving them this question and what we've got would be the way to do that. Thank you.

Steve Metalitz: Okay thank you (Mary). I've got (Susan) I think that - was that an old hand? I mean I think let me turn to James and Kathy and then (Susan) if you want to get back in the queue for review. James?

James Bladel: Hi Steve. James speaking for the transcription. I just want to clarify a point that I made earlier because I think from (Susan)'s comments

there may be some misconception or misunderstanding of what I was trying to say earlier.

So I just want to be 100% clear that I am not advocating for a completely anonymous commercial transaction online with no recourse for buyers or consumers. That's not my position at all.

I know that that's a position of some. You know, I think the folks that are behind some of these are non-residual currencies but that's not what I'm driving at.

My point is simply that the registrant of a domain name/customer of a privacy proxy service versus the operator of the Web site versus the person who receives a payment from an online payment system made be all different entities and that getting that at the privacy proxy service customer because of a problem with an online commercial transaction may be going after the wrong party particularly when there are other mechanisms maybe available for dispute or for support or for questions.

And I think the analogy for me is kind of like, you know, I don't like what I see on TV so rather than calling my cable company I'm going to call the electric utilities.

Now it's clear my TV won't work without electricity but I may be missing, you know, directing that complaint or problem to the wrong party.

And I think that that's sort of the analogy that I'm trying to drive here that there are other parties in the chain of a commercial transaction

that may or may not be related to one another where those issues should be directed, So just wanted to get that clear because I wasn't advocating for, you know, I guess a free for all. Thanks.

Steve Metalitz: Next James? I've got Kathy and then (Stephanie). And if there's anybody else that wants to get in the queue on this please put your hand up or speak up. So maybe we can move to wrap up this section after that. So Kathy go ahead.

Kathy Kleinman: Great thanks Steve, a procedural point then a substantive point. The procedural point is that we spent weeks and weeks on this and months I think on this category C already. And I would object to reopening all of it but I think the summary of that we have is fairly accurate. It can change some of the terminology.

But it really is not a consensus towards changing. And we can go through all the rationale. We can go back to the months of work. But I don't want to. We spent our time on this issue. We spent a lot of time on this issue.

On a substantive point anything that's developed since our discussion on this which can't of been all that much is actually seems to me the technologies are moving towards something that's beyond our scope.

And that's that there so many intermediaries involved now in the payment process -- PayPal, AMX. Small businesses invariably don't collect the money directly. They go through these very large intermediary companies -- MasterCard, Visa, AMEX, PayPal.

And those, the intermediaries, the payment processors are coming up with the complaint processes and the constraints if you don't get what you need the whole refund process is now going through these very, very large international intermediaries.

This all seems so far beyond our scope that it hasn't changed much except, you know, moving in the right direction or moving way beyond our scope. Thank you.

Steve Metalitz: Okay thank you Kathy. I've got (Stephanie) and Kirin then I'll put myself in the queue. (Stephanie) go ahead.

(Stephanie): Yes I think Kathy has actually made one of the points that I was going to make that with this disintermediation process it's like I agree with (Susan)'s basic point, you do want to stop bad behavior. But it's not within ICANN's remit in many of the cases.

On the technical point which he raised yes indeed we have to make sure that technically we can solve problems quickly. And I thought we had dealt with that. As that's not dependent on the real identity of the individual.

And so we have to be crystal clear about what problem we're trying to solve. And then secondly of course is I'm - I thought we had dealt with this.

And while I realize it's a huge topic it'll get us right back into the purpose of registering a domain name which I don't see Michele here this morning but he was very eloquent about the multiple reasons people register a domain name the last time.

And trying to look into a crystal ball and figure out what their purposes will be quite difficult.

I think we should stick to ICANN's mandate and which is technical and not try to get into content. Other parties are doing it well.

Steve Metalitz: Okay thank you (Stephanie). Kirin? Go ahead.

Kirin Malancharuvil: Hi, sorry. I just I noticed that in the chat someone called (Frank) I think had mentioned that a privacy shield doesn't prevent an individual from contacting the registrant or a domain name.

And I think that that point is interesting and it kind of neatly highlights why I think this is worth revisiting in light of the other work that we've done in this group particularly on the relay and reveal issues.

And I think that that one boils down to we've come up with some fairly stringent requirements for people to seek relay and to - and especially to seek disclosure in the absence of response in relay.

And so there's actually a huge barrier to get into the registrant of the domain name who in our experience although I guess there's a lot going on in the chat about landlords and building owners and whether that relates to the person operating the store.

Like is the registrant of the domain name is the key to figuring out who you're giving your money to or at the very least it's a big first step?

And so this group just kind of, you know, put in some pretty stringent requirements on how to get to that person. And at that point the individual has kind of been chunked in sideways.

Do you think that, you know, Joe Schmoe consumer's really going to be able to make a compelling legal argument to get past, you know, the gateways of, you know, that we've put up in order to get to disclosure? Will they even really know how to request (reveal), et cetera?

So I think that's why the question is newly worth revisiting.

And so while I know that other people think it's a waste of time and while I also note as (John) said that we might not make any - sorry, somebody's making a lot of noise on the phone. You know, that we may not make any progress convincing each other one way or the other I do think this is worth revisiting for that reason. Thanks.

Steve Metalitz: Okay thank you Kirin. This is Steve. Let me try to sum up where I think we are. This is the first and there has been a suggestion for a legal review. I don't think that that's attracted a lot of support. And I think there are some practical questions with inserting that in our process at this point. It doesn't rule it out further down the road.

Secondly in terms of the preliminary, the draft report, the preliminary conclusions there's been a lot of questioning of the characterization of majority and minority views.

I think it's very timely for these chairs to visit that, those labels and see if they are appropriate here.

It's clear we don't have consensus on this but how to characterize the divergent viewpoints is the question.

I think we need to make the draft report a little crisper, make it clear what is our preliminary conclusion and what is laying out alternatives.

And I would ask those who I guess on both sides but especially those who think that the status quo should be changed on this question to look at this report carefully and make sure that we've got a crisp statement of what your view is.

I see on here on Page 5 there's a sentence that reads reportingly these members suggested that domains used for online financial transactions for commercial purpose should be ineligible for privacy and proxy registrations.

And I guess I'm asking not necessarily right now but on the list if folks could see - could state whether that is an accurate crisp formulation of what they think the rule ought to be for privacy proxy service accreditation.

And then, if that is an accurate statement of it then obviously there are practical questions that could arise and how that would be applied. But let's make sure that we have the viewpoints clearly set out here.

With that I'm going to see if we can move on to C2 - no actually if you look at this text on C2 it really it - there's nothing - it doesn't really respond to the question. I think we've answered the question which is I don't - I think we have consensus that the status of the registrant as a

private individual we're not - should not be determinative of whether they can use a proxy a privacy service. It's really just the disagreement comes in the area of use.

So I think we've answered Question 2. And then most of the text in there actually refers back to earlier statements in B2 about making it clear, that in the Whois output when a particular registration is a proxy or privacy registration.

So most people have something else they want to say on that on to look at C3 which is whether there should be different information displayed. And it's not clear to me and put. We do have a preliminary conclusion listed there. This is on page 6. And it refers to a majority.

But so I don't know whether - how much how much this tracks the disagreement we've just been talking about.

So I guess I would just ask a question. If they - if a status quo is maintained in the sense that a privacy or proxy registration can be used where there's a commercial activity involved or commercial transactions involved I guess I should say should there be any difference in what information is displayed in the data field's circumstances?

If anybody has any thoughts on that I just I want to make sure that we're that I think we know where we stand on the larger question about whether such registration should be allowed.

But my - I guess my question is if they are allowed does anybody think there should be some distinction in terms of what information is displayed?

Now let's move on again. If you have thoughts on the list that would be great. But let's move on to Category D which really has to do is contact ability and responsiveness of the providers.

We see the preliminary conclusion thereabout maintaining a publicly. I can't maintain a publicly accessible list. Class answer refers to responsiveness which we've talked about in the relay and close in the relay and disclosure realms. Were there any comments on what is down there on D1 on Page 6?

Actually in the chat were still in the forest of real estate analogies. So I'll just ask of people have comments on key one to bring those to the list.

D2 on a dedicated point of contact we had - we suggested changing that to designated point of contact. And doesn't have to be that person's only job I guess and the possible standard of capable and authorized.

So if you look at the last paragraph under D2 there are a couple of points about types of abuse complaints allowed and what remedies would be available.

In fact again some of that has to do with relay and disclosure and what categories of activity might be covered by an abuse report.

I see James has his hand up. And I'm sorry if I've skipped through something here. But James I'm not sure which category or which section you're commenting on but please go ahead.

James Bladel: Thanks Steve, James speaking and I'm not 100% sure myself.

So I just wanted to weigh in on I think one of your comments about the definite or the characterization of dedicated point of contact or capable and authorized.

And oh, never mind, I'm going to drop my contribution because I see it's already noted here that that is borrowed from the language of (Teac). I was going to point out that we did have this discussion in the context of another working group. But I see it's already captured here so sorry for that stretch.

Steve Metalitz: All right that's - okay turning to D3 we noted that there's already some requirements here for the interim specification. We have a requirement for a publicly accessible lists and for making it clear when Whois entries are from a privacy or proxy provider.

Is there anything that people want to add there or comment on in D3?

Okay and then in D4 which for some reason appears twice in this document I think it's the same in both on Pages 7 and 8.

That's gets to the question of what types of alleged misconduct if any would we cover?

I think our recommendation is for an indicative list. We - I dedicate two sources. It needs to be flexible.

So I guess the question is whether people have comments on that or think that we should come up with an exhaustive list of the types of abuses that would be subject to this procedure.

Okay I'm not sure whether people just think this is fine or they're just interested in seeing how much further my voice is going to deteriorate. But this kind of brings us to the well the last paragraph here is about a standardized form for information requests and reports of these reports. And at minimum such a form should include the following elements to be completed.

So do people feel that we need to list those elements in order to be ready to have a draft report here or is it sufficient to say that if, you know, implementation the elements that would be required in a standardize form would be listed?

This is a - we are recommending that there be a standardized form. So I guess I'd be interested in hearing particularly from, particularly from providers as to whether they see problems with that or whether they're comfortable with the idea without getting into what the form would be exactly.

But are they comfortable with the idea of having a standardized form so that people who encounter proxy registrations would have a form they could use to complain about abuse that's occurring in connection with that domain name?

Are there any comments on that? I see James has his hand up. I'll encourage anybody else who has a view to get in the queue there. James, go ahead. And I see Kirin after him. James?

James Bladel: Hi Steve. So one guy with a failing voice trying to rescue the other guy with the failing voice. But James...

Steve Metalitz: And I appreciate it.

James Bladel: ...croaking for the transcript. And you know I think is a provider we would probably welcome standardization in terms of forms or at least something that outlines the elements that would need to be captured as part of this mechanism.

I think it's important for us to consider the scalability of anything that we put in place here or try to implement because they could be dealing with large numbers of traffic and would need to be automated.

And I think that anything that tends itself towards a finite set of information would be more readily operationalized by providers. So I just wanted to lend my support to that idea. Thanks.

Steve Metalitz: Okay thank you. Kirin go ahead.

Kirin Malancharuvil: Hi. I just wanted to agree that standardization is always better for us as well from a provider standpoint and we don't have any problem with that.

Steve Metalitz: Thanks. Kathy?

Kathy Kleinman: Yes I just wanted to warn that standardization may lock us in.

There's discussion in this section as well about leaving room open for new types of malicious conduct.

And we've also heard over the course of our many, many discussions that different privacy proxy providers are looking at different things under their national laws.

So leaving room for those tweaks and changes based on country, based on region is something I think we should consider.

So with the James - somebody said something about standardizing information, maybe not standardizing the form itself but we're creating a set of information that everyone would gather with the option to increase. Thanks.

Steve Metalitz: That's a good point. There's a reference to a space for free-form text but perhaps that should also refer to space for other categories or other complaints that fall outside the categories.

Any other comments on D4?

I'm seeing in the chat some discussion about the registered name definition in the RAA. I'm not quite sure where this fits in to what we've been talking about.

And then I also see, you know, graham's point that if there is standardize form for complaints that should include - it should allow capturing more information as well.

Mary I'm sorry, I see your hand is up so please go ahead.

Mary Wong: Not at all Steve, thank you. So just to I guess respond to the one question you asked I just put in the registered name definition because earlier on in the chat Christina Rosette had suggested or at least asked them if we wanted to consider instead of using the phrase domain name whether the more defined phrase registered name might be more appropriate. So that may be something members might want to consider or not as the case may be.

The point that I raised my hand for following-up on the discussion of standard forms and the fields and so forth what we can do in our initial report for this as well as for the other questions that either remain somewhat open or for which we might want more information we can actually call that out in the initial report and request that in the public comments respondents provide us with some further suggestions.

And on this particular point in D4 some of those suggestions may well be more appropriately dealt with under the implementation phase, should all recommendations be adopted?

So and I know this point's been made before that our group should not be designing, you know, the format of the form but also to note that some of these discussions will go over and it may be more appropriate for implementation related discussions. Thanks Steve.

Steve Metalitz: Thank you. Those are both good points. Our draft report can contain questions on which we significantly submit input. I think our discussion on C1 and C2 would be one example of that.

And then yes, getting too much into the weeds would be (unintelligible) level.

Kathy, I see your hand is up. I don't know if that's an old hand. But if it's not, please go ahead.

Kathy Kleinman: Sorry, Steve old hand. And thanks for leading this call even with the cold -- appreciate it.

Steve Metalitz: All right. Well, thank you. Let me just see if there's - I see Mary. Is that an old hand or do you have something else you want to...

Mary Wong: No, sorry. That's (unintelligible) old hand. I'll take it down.

Steve Metalitz: Okay. So unless there's any other comments that people want to make I think we've had a good call here and move through C&D. Obviously, there need to be some changes on our preliminary conclusions or some adjustment or clarification in the C1, C2 area.

So unless there are other points that people want to make I want to wish those in the US a happy Thanksgiving holiday. And we will reconvene next Tuesday at the usual time. Thank you.

Mary Wong: Thank you Steve. Thank you, everybody.

Woman: Thank you.

Woman: Thank you very much. Thank you, (Andre). You may now stop the recording.

Man: Thank you very much all.

END