

**ICANN Transcription  
Privacy and Proxy Services Accreditation Issues PDP WG  
Tuesday 28 April 2015 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 28 April 2015 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-28apr15-en.mp3>

Attendees:

Frank Michlick – Individual  
Val Sherman – IPC  
Griffin Barnett – IPC  
Kathy Kleiman – NCSG  
Steve Metalitz - IPC  
Graeme Bunton – RrSG  
Jim Bikoff - IPC  
Alex Deacon –IPC  
Stephanie Perrin – NCSG  
Phil Corwin – BC  
Terri Stumme – BC  
Holly Raiche – ALAC  
Susan Kawaguchi – BC  
Luc Seufer – RrSG  
Roger Carney – RrSG  
Sarah Wyld – RrSG  
Carlton Samuels – ALAC  
Todd Williams – IPC  
James Gannon – NCUC  
David Heasley – IPC  
Paul McGrady – IPC  
Tatiana Khramtsova – RrSG  
Vicky Sheckler – IPC  
David Cake – NCSG  
Michele Neylon – RrSG  
Kiran Malancharuvil – IPC  
Richard Leaning – Individual  
Susan Prosser - RrSG  
Lindsay Hamilton-Reid - RrSG  
Chris Pelling – RrSG

Apologies :

Don Blumenthal – RySG  
Osvaldo Novoa – ISPCP  
Darcy Southwell – RrSG  
Volker Greimann - RrSG

ICANN staff:

Mary Wong  
Marika Konings  
Terri Agnew

Coordinator: Good morning. Good afternoon. Please go ahead. This call is now being recorded.

Terri Agnew: Thank you (Francesca). Good morning, good afternoon, and good evening. This is the PPSAI Working Group Call on the 28 of April, 2015. On the call today we have Tatiana Khramtsova, Holly Raiche, Steve Metalitz, Graeme Bunton, James Gannon, Stephanie Perrin, Sarah Wyld, Frank Michlick, Vicky Sheckler, Michele Neylon, Griffin Barnett , Paul McGrady, Roger Carney, Phil Corwin, Alex Deacon, Todd Williams, Kiran Malancharuvil, Jim Bikoff, Kathy Kleiman, Susan Kawaguchi, and Terri Stumme. I have apologize from Darcy Southwell, Osvaldo Novoa, Don Blumenthal and from staff, we have Mary Wong and myself, Terri Agnew.

I would like to remind all participants to please and Marika Konings, I apologize. I would like to remind all participants to please state your name before speaking for transcription purposes and Val Sherman just joined us as well. I'll now turn it back over to you Steve.

Steve Metalitz: Okay. Thank you. This is Steve Metalitz. We have a lot to cover today so first, let me just ask if anybody has any updates to their statements of interest to share. If not, let's get started. I think the draft of the initial report when out in a timely way on Thursday. I think Mary has put together a summary of the

comments received as of yesterday evening, Eastern time, and then one more comment came in after that.

So what I would suggest is that we just walk through these. I think we can move through a lot of this very quickly since most of these are noncontroversial and good improvements. Let's reserve a few minutes at the end for discussion or views on the deadline, the comment deadline for the draft report.

So why don't we just dive in. You see on the screen in front of you a very consolidated list of the comments that came in. I think we can - let me just start on the first one of what the square brackets mean in the executive summary. I think - I'll just add to this that Kathy suggested in her note late yesterday evening that this going to the text rather than the footnote and I assume there is no objection to that. So let me just ask if there's any objection to this reformulation of the meaning of square brackets and putting it into the text.

Okay. If not, I'd like to take the next six bullets together. These are really good editorial suggestions to getting rid of reveal and since we're not using that term, standardize how we refer to some of these, deciding how do a requester, moving the definitions, and adding a couple of definitions. I guess I would just ask the first if there's any - if staff has any comment on these because my suggestion on these next six bullets, getting down to the first three under Section 1.3.1, would be to agree to these and leave it to the staff to implement these in the draft report. Is there any objection to or comment on that?

Mary Wong: Steve, this is Mary, we have no objections. We can certainly do it. The only request I would make to the group is that the two suggestions by Holly relating to requester and relay requires us to add a definition. I assume that's no problem but I did want to draw attention of the group to that because it means we'll be suggesting language for those terms.

Steve Metalitz: Well, yes. She suggested language here.

Mary Wong: Yes.

Steve Metalitz: So yes. Unless anybody has any objection to that I would assume that - I'm leaving it up to the staff to implement this but I think this is all pretty close to what we are looking for. Holly, you have your hand up so please go ahead.

Holly Raiche: Thanks Steve. Yes - yes I am in fact suggesting the definitions because in fact, I think it will read far better if it's really clear and exactly what we're talking about. Particularly, the reveal, I just would not use the term except to say if you want. Disclosure means you reveal to the customer. What - you reveal...

Steve Metalitz: You mean to the requestor.

Holly Raiche: ...to requester customer details but otherwise I just wouldn't use the term because it is absolutely confusing. So otherwise Steve, I'm absolutely happy with just having the definitions, having them upfront and then used consistently throughout and then I'm very happy...

Steve Metalitz: Okay.

Holly Raiche: ...and there's no need for a discussion.

Steve Metalitz: Okay. Thank you and again, I'm going to leave this to the staff if there's any wrinkles that need to be ironed out but I think we're all in general agreement on this. Okay. Moving on to the fourth bullet which deals with recommendation for and I don't know if we can throw recommendation for on the screen or I can just read it here.

I think this is really about the second sentence of recommendation for which it says, in the cases where for privacy PP providers affiliated with the registrar as defined by the 2013 RAA, validation and verification of the PP customer data was carried out by the registrar. Re-verification by the PP service of the same identical information should not be required and (Darcy) is asking, can the PP provider rely on its affiliated registrars validation verification? I think the answer to that question is yes.

Mary Wong: Yes.

Steve Metalitz: Does anybody think that it's different? Let's - (Darcy), I hope that clarifies that point for you. Moving on to the next bullet. I'm sorry Mary. I think we're back on the list here.

Mary Wong: Yes. What happened to the list?

Steve Metalitz: It's coming back.

Mary Wong: Okay.

Steve Metalitz: The next one on the list would be the fifth bullet. Should we require providers terms of service to utilize the same definitions of publish and disclose as defined in the accreditation program? In other words, it's in this document. In the staff has responded yes. Does this need to be made clearer? Let me just ask. I would certainly ask providers if they have any views on this.

Ordinarily we are not - ICANN is not in the business of micromanaging the terms of service but obviously for accreditation purposes it would be appropriate -- if that's the consensus of the group that they use that term, those terms publish and disclose -- and I think that would certainly - it strikes me that that would increase the customer understanding of what these rules are. So I'll just ask if there any comments on this bullet question here and I see Michele has his hand up so go ahead Michele .

Michele Neylon: Thanks Steve. Michele for the record. One concern I would have here is the policy is going to be written in American English. A German provider is probably going to provide the terms of service in German, a French provider in French, et cetera, et cetera, et cetera. I think it requires - so I think this requiring privacy - I can't manage words. Privacy proxy providers terms of service to use the same definitions would be problematic because that won't work particularly well in translation. Thanks.

Steve Metalitz: Yes. That's a good point in one option here would be to say that this would be a recommended best practice to utilize the same definitions as much as possible. I see Holly is agreeing, I think, with Michele on this. Mary, go ahead.

Mary Wong: Thanks Steve and thanks Michele . It brings a good point especially as I'm not American. I was just wondering that if we put something in to say essentially convey the equivalent meaning in whatever language the terms of service is because we do note that Steve your point earlier that this is part of the accreditation framework and this is a fairly significant recommendation from the working group.

Steve Metalitz: Okay. Thank you. Michele , go ahead.

Michele Neylon: Thanks. No. Just on - I think I know where were kind of going with this and I don't have a problem with the general direction. It might be helpful in the policy but -- sorry -- within the policy to have a section of definitions and there are already a number of areas with an ICANN policies where people are being directed to a definitive source.

So for example, with who is output now, the EPP statuses are sent to a specific page on the ICANN or IANA website where you have the actual definition. I mean, I don't want to get into the weeds on what Mary is talking about equivalent language, blah, blah, blah because then we're opening

ourselves up to a silly argument about whether (Luke)'s version in French is equivalent to the original version in American English or something equally silly but I think this is something that in the best practices concept is one idea but if we clearly have defined what the ICANN policies are on this with the actual definitions than it shouldn't be too much of a problem.

Bear in mind that the ICANN contract policies and everything else are written in a language which is at the opposite end of the spectrum to plain English. So for a lot of us, we'd probably be hoping to rise as a language that normal people can understand. Thanks.

Steve Metalitz: Okay. Thank you Michele . Any other...

Woman: Hello?

Steve Metalitz: Any other comments on this? Yes. Go ahead. Did somebody want to get in the queue? Did someone want to get in the queue here or was that a hello for some other purposes? Okay. Well I think we - I take it from this discussion, although brief, that we don't have a consensus to actually require exactly the same definitions of publish and disclose but I think Michele 's point is well taken.

If those are clearly defined in the terms of service have to meet certain elements which is what recommendation seven is really talking about, then it would be on a case-by-case basis if they don't explain what disclosure or publication is an obviously it seems like it would be a best practice to hue as closely as possible to those definitions or their equivalent in whatever the language is in the terms of service.

So my recommendation is that we just pass over this with - I mean, one idea is to ask the staff to put in a sentence in the - I don't think it necessarily needs to be in the executive summary but in the discussion of this in Section 7 to mention that it would be a best practice to adhere as closely as possible to

the terms disclosed in publish or to their equivalents in the language of the terms of service. Is there any objection to including a sentence like that?

Okay. If not, let's move onto the next couple of bullets that deal with recommendation seven. The third bullet point and I'll just - again, I'll just read this as it stands right now and this is, again, one of the things that needs to be in the providers terms of service.

Clarification as to whether or not a customer, one, will be notified when a provider receives a publication or disclosure request from the third-party, and two, in the case of publication whether the customer may opt to cancel its registration prior to and in lieu of publication. So the first point it really goes to Holly's concern. It's the first one listed here. Excuse me. Yes. About why would a customer not be told and I think the staff's response makes sense here in some areas.

It's certainly the case if the framework we have in here for intellectual property requests is adopted, then for those requests the customer will always be told but because of law enforcement concerns and others that aren't covered by that template, there may be circumstances in which is left up to the provider to make that decision. So I think that's the explanation of that and let me just ask. Holly seems to be accepting that. Michele , is this on this point?

Michele Neylon: Yes it is. Thanks Steve. It's Michele again. You can also be receipts of a court order which forbids you disclosing the fact that you received a court order but the US government has this thing called, I think it it's (Visa) so there can be a number of very good reasons which you may not like but which forbid you from doing it and so - yes. Thanks.

Steve Metalitz: Okay. Thank you. Okay. S (James), did you have something on this point?



James Gannon: Yes. I possibly might suggest that we put in some language to say less prohibited by law or by court and that the customer will be informed. So it's similar to a (warrant canary) - you have a section in the polity to say (unintelligible) the court orders specifically bars you from informing the customer, then you will inform them.

Steve Metalitz: Yes. That's certainly something that could be in the policy or the terms of service that the provider adopts but I don't think it this point in the process we can open it up to that as a requirement across the board. Again, we don't have - outside of the intellectual property sphere, we don't have a template for quite how this will operate. We're soliciting suggestions for more templates on that but thank you for that comment.

Moving on to the next point on seven, third bullet point, and this goes to the second part of this bullet point which says in the case of publication -- whether the customer may opt to cancel its domain registration prior to and in lieu of publication -- again, this is an option, that the provider may or may not offer but how he makes the point and actually was in my comments as well that they should spell out whether they offer this option for publication and for disclosure. I'm not sure why it would necessarily be different but let's cover both publication and disclosure here.

So in other words the provider needs to say in his terms of service whether it will or won't give the customer that option to cancel the registration in lieu of disclosure or publication. So is there any objection to that way of resolving it consistently with Holly's comment?

Woman: Michele doesn't like it.

Steve Metalitz: Okay. Michele doesn't like the idea of being - well, we already have in there, we've had in there for a long time that you have to inform when it's about publication. So this is just when it's about disclosure and again, you can say this is not your policy.

So it's really up to the other one. Okay. Thank you Michele . Thanks for the clarification in the chat about the previous point. Okay. So that - unless there's anything else on recommendation seven, the third bullet point, I had a drafting change there which is simply because we say whether a customer - we say whether the customer twice. So let's move on to recommendation eight. The first bullet point...

Michele Neylon: Sorry Steve. Michele , I'm running kind of 10 seconds behind you. It's not intentional I swear.

Steve Metalitz: Okay.

Michele Neylon: Just on this point about cancellation of registration, are we saying that people will always have the right to cancel their registration or what are we saying?

Steve Metalitz: No. We are not saying that. We are saying that if the provider offers that option, they should disclose it in the...

Michele Neylon: Okay. So it's in the - that's fine. That's fine. That's perfect. That's all I needed to know. Thank you

Steve Metalitz: Okay. Okay. Recommendation eight, the first bullet point. I think this is pretty straightforward. I'll just read the first bullet point here. Privacy proxy services should facilitate and not obstruct the transfer renewal or restoration of a domain name by their customers including without limitation the renewal during a redemption grace period and under the ERRP and transfers to another privacy proxy service.

The point that I think (Darcy) raised was whether that should be transferred to another registrar. I think the answer to that is yes but I would certainly be stand to be corrected if I'm wrong on that. So in other words they would not obstruct a service. The privacy proxy service would not obstruct a transfer of

a domain name to another registrar. Is there any objection to that point?  
Network connectivity was lost. Are we still on the phone?

Woman: Yes. I think so.

Steve Metalitz: Okay.

((Crosstalk))

Kathy Kleinman: Steve, this is Kathy. Can I ask a question now?

Steve Metalitz: Hold on just a second. Are those - I think our Adobe room is down.  
Everything - the screen grayed out here for me. Two other people have this  
problem?

((Crosstalk))

Michele Neylon: It's on your end Steve. Try refreshing your browser.

Steve Metalitz: Okay. I will try that. Go ahead Kathy

((Crosstalk))

Kathy Kleinman: So I have a question. Whenever we use acronyms -- especially those that  
reference back to the registrar accreditation agreement -- can we explain  
what they are? We are going to have a lot of people reading this report who  
may never have read or heard of the registrar accreditation agreement and I  
think we have to make it as easy for everyone to reference all the terms as  
possible.

Steve Metalitz: Yes. I think that's a good point. That's kind of the ICANN standard now is to  
put in the references. I'll leave it up to the staff to determine whether those  
references, those acronyms should be spelled out each time or just the first

time or each time and the first time it's used in each section but I think that's a good point and I'll ask the...

Kathy Kleinman: What was the one here because I don't have the text in front of me? EERP?  
The one you just read.

Steve Metalitz: RRP?

Kathy Kleinman: Yes. ERRP.

Steve Metalitz: Yes. I don't know what - I don't remember what that stands for but it's about the redemption grace period.

Kathy Kleinman: Right. That's one in particular I think we should spell out. Thanks.

Steve Metalitz: Sure. The registrars could.

Woman: Expired registration recovery period.

Steve Metalitz: Thank you. Okay.

Woman: Steve, if you're not back yet in Adobe, (James Cannon) has his hand up.

Steve Metalitz: Okay. Well go ahead (James).

James Gannon: James Gannon. I have a question. Why can't we include both private proxy service provider and or another registrar? Surely we should be leaving people open to doing either or both.

Steve Metalitz: Okay. I'd be interested in any reactions to that suggestion. Well, it's - the - this point starts with privacy proxy services should facilitate and not obstruct the transfer, renewal, or restoration of a domain name. That ordinarily doesn't

include moving to another privacy proxy service but I don't think that people have any objection to that.

Man: I see Michele has got his hand up.

Steve Metalitz: Michele, go ahead. Thank you very much. I am - I now seem to be back in the room so hopefully I can be a little more confident on this. Go ahead Michele.

Michele Neylon: Thanks Steve. It's Michele again. To (James') point, I think part of the problem some of us might have with this is that in many cases the proxy privacy service is something which is run by the registrar or an affiliate or company of the registrar and we would want the situation where those details and who is are used by a third party that we don't control. I mean, for example, as far as I'm concerned, they wouldn't actually recognize those, I think, as a proxy privacy provider under the terms of the contract anyway unless they were associated with the registrar and maybe I've missed something somewhere but anyway, I think the - I think I've understood that correctly.

James Gannon: This is (James) again. No. Yes. That's an understandable interpretation. So in that case I'd support the language of transference to another registrar

Steve Metalitz: Okay. Thank you. Other comments on that? Okay. The next point here is from recommendation 16, the first bullet point, and this is I think Holly's recommendation and this bullet point reads all third-party electronic requests alleging abuse by a PP customer will be promptly forwarded to the customer and it goes on from there. Holly is raising the point of whether we should say abuse or misuse. I think we could do that.

I think we've been fairly consistent throughout and talking about abuse or were talking about abuse or malicious conduct back in recommendation 12. So I'm not sure we've used the term misuse so that would be my concern

about throwing a new term in their because of abuse, while not totally defined, at least we give some indications of what it covers. So let me just ask for any further comments on that or any response from Holly.

Holly Raiche: Yes. Holly Raiche for the transcript records. Thanks Steve. It was just - it sounds abuse for somebody who is not as familiar with what the term is, the rest of us are and haven't looked at it for that long. It sounded a little bit harsh which was the reason I thought is it really all the time that bad? It was an impression as to how somebody would read that who hasn't lived and breathed the words but I'm pretty relaxed as to whether you want to use my Fraser not.

Steve Metalitz: Okay. I guess I'd be interested if there are any comments from any providers on this because this sentence is directed to providers. All third-party electronic requests alleging abuse by the PP customer would be promptly forwarded to the customer. This is in the relay section. Mary, I see you have your hand up.

Mary Wong: Yes I do Steve. Thank you and the first point was to echo what you said that there is a consistent use of words like abuse in the report. Secondly and it's a related point, the charter question actually uses the term illegal activities and on the word abuse and illegal activities I think in a different recommendation we do make reference to things like the public interest commitment and the GAK safeguard as a starting point to develop a list of what those activities are.

I don't know if this helps Holly's point as to whether we should just retain abuse or whether we might want to change it to something like illegal activities but that's the backdrop and that's the word in the charter question.

Steve Metalitz: Okay. I think you're referring to recommendation 12 where it says alleged malicious conduct. That's where the references are to the specification and so on. So if we are going to add something here, I think it would make sense

to add malicious conduct but there seems to be a general sentiment, at least based on the chat anyway, that abuse might be okay and it might be the right word to use in the setting. Michele ?

Michele Neylon: Thanks Steve. It's Michele . I'm more comfortable with the term abuse. Misuse to me sounds like, I don't know, somebody used the wrong screwdriver when they were putting in a screw or something. I don't know. I'm not being facetious. I'm actually being semiserious. It's just misuse to me, I mean, that sounds like they're going to be opened up to having to deal with, I don't know, people who build websites that only work on Internet Explorer which I could see as being a misuse of the Internet but definitely not the case of abuse. Thank you.

Steve Metalitz: Okay. Thank you. Alright. So I think the consensus is we're okay with just leaving it as abuse at this point unless there is an objection to that. The next two are pretty straightforward. In recommendation 16, we currently say in the second bullet point that failure to - let me just look at it here. That persistent delivery failure doesn't trigger any further provider obligations unless the provider also becomes aware of the persistent delivery failure and then it says a percent of delivery failure will trigger the provider's obligation.

So we need to say that when the provider becomes aware of it, it triggers provider's obligation to perform a verification re-verification. So in other words, it's just adding in that - removing the contradiction between those two bullet points so that a persistent delivery failure that the provider is not aware of has no consequences as far as further obligation but if they become aware, then it may have consequences and then 17, we do include a definition of law enforcement agency but it does not state that it's taken from the registrar accreditation agreement and it probably should be done so people know where we got that from and if they don't like that, they can address their criticisms accordingly. Any objections to those two bullet points, the remaining 116 and the remaining 117? Okay.

Turning to the last two which deal with recommendation 20 about de-accreditation and how much agreement we have on the process. I think that the - I think we've gone as far as we can get at this stage on what we say about the accreditation with the recognition that obviously there's going to be a lot of implementation issues about how de-accreditation actually works but let me just see if Holly if there is anything that you wanted to say on that. Let me just reference the staff if the staff has any points that they want to make on this comment on recommendation 20.

Holly Raiche: Yes. Thank you Steve. It's Holly for the record. I guess I was reading this thing thinking we really haven't spelled any of this out. So we should make it clear somewhere in the interim report that as far as we decided, there will be some kind of accreditation prices.

There will have to be - if it's an accreditation process, clearly somebody has to measure compliance, there has to be some kind of sanctioning if there's noncompliance and none of that really has been worked out and is really only passing reference in the report to the fact that compliance, the ICANN compliance, will play a role. I'm not sure what that will be. So maybe we should at least flag that we haven't got to that stage yet and we would welcome comments or something but it just seemed to me that there's a big gap in the report on this issue just because we haven't got to it. Thanks.

Steve Metalitz: Okay. Thank you. Does anybody else have their hand up because I've been kicked out of the room again and I'm trying to get back in. Alright.

((Crosstalk))

Man: No hands Steve.

Steve Metalitz: Okay. This suggestion is that we have something in there that says we have not addressed specifically the role of ICANN compliance. I mean some of that is an implementation issue. Some of it might be something we would get back



to in the next phase here and I guess one option now, alas the staff for their views on this, but one option is that we could have a sentence in the section 7 discussion about this recommendation that basically says that. Does that sound like a reasonable way to proceed

Holly Raiche: I would - yes I would like to flag that because I'm sure there will be implementation...

Steve Metalitz: Yes.

Holly Raiche: ...but I would like some discussion at a high level from input from everybody as to what do you think should be involved in terms of a process in terms of what do you think should be a breach and how are you going to measure it and what if any is the sanction? I mean, keep it very high level but some guidance so that when we come to an implementation phase there is really some policy guidance as to what the hell it looks like.

((Crosstalk))

Steve Metalitz: Okay. I will point out that we do have some guidance of that type in the recommendations now because we say a graduated response approach to the accreditation should be so that's...

Holly Raiche: Yes. I - I read that and I...

Steve Metalitz: ...some guidance and I mean...

((Crosstalk))

Holly Raiche: Yes. Well, I would group those together. I'd group those together Steve and say we've thought about at least a little bit but can we flush - are there some high level responses to (unintelligible) because right now there's very little

guidance for an implementation working group as to what a compliance framework would look like for these.

Steve Metalitz: Okay, let me ask Mary for any reaction to that as to feasibility of including something in the draft reporting asking for public comment on the role of compliance, Mary.

Mary Wong: Steve this is Mary. There's no reason why we couldn't have a question for listing public comment but as you note from the staff comment in this summary document this seems to be something that's more appropriately considered by the implementation review team which would presumably comprise members of this working group and the community.

So given that essentially that the steps are first the accreditation and then the compliance and the accreditation that follows really have to be designed in implementation I guess.

I'm a little concerned at doing more than asking the question and putting anything more than that in the report. And I see that Michele has his hand up as well Steve.

Steve Metalitz: Yes thank you I'm back in the room at this point. Michele go ahead.

Michele Neylon: Thanks, Michele for the record. Obviously I mean from with speaking just from my own perspective unless there is some level of compliance enforcement then this entire exercise is completely futile.

And obviously I think compliance enforcement needs to be done in such a fashion that it's uniform and et cetera, et cetera. Just so we're clear because, you know, from my perspective I don't see why the hell I should waste time, energy and effort trying to make sure that our services are compliant with a contract if people aren't going to bother and get away with it. That would just seem completely ridiculous.

Around and I think part of what Holly was asking is around the geo accreditation process and everything else. I think maybe this is something that, you know, we need to put like a (unintelligible) to say look, you know, this is something that maybe ICANN compliance may need to weigh in on or something like that.

I mean we could get into the weeds on this now we're trying to over specify but I mean just the fact that we've noted there should be some kind of process there I think is sufficient, thanks.

Steve Metalitz: Okay thank you Michele this is Steve again. There seems to be agreement that this would be an appropriate question to include in the draft final report with the caveat that some of it may be an implementation issue and not a policy development issue.

But that we're aware that compliance will play an important role in making sure that this if this accreditation system is to be successful. So unless there are other comments on that I would like to move onto the last bullet on rec 20.

Will ICANN need to approve finding a gaining provider? And this is because we have several references in our recommendation 20 about accredited, the accredited provider should have the opportunity to provide to find a gaining provider to work with and where feasible the customer should be able to choose it's new, well that's about choosing a new one.

But in terms of the gaining provider my assumption is that ICANN would need to approve the gaining provider since some providers being de-accredited you don't necessarily want to leave it up to that provide to choose its successor.

So I think that's understood and maybe we should put in a reference to that in recommendation 20. Is there any disagreement with that? Okay thank you, let's just move through the rest of these points here.

On the law, on Section 1.3.2 we have a list of questions about law enforcement since we haven't really, you know, that's a topic that we haven't gone through and one question is, what if any when there is a law enforcement request what if any should be the remedies for unwarranted publication?

And the question is raised here about whose remedies would that include registrants? I think that's kind of embrace in the question what if any should be the remedies for more into publication. That would certainly invite people to raise the question who should be able to invoke that remedy.

But let me just ask if there's any comments on that I see Holly's hand up, go ahead Holly.

Holly Raiche: Yes thanks Steve it's Holly for the record. I think part of that is either penalties or and this is part of the compliance point. If there is unwanted publication then in fact it means there's been somewhere there's been a non-compliance issue and I think we've already dealt with that issue.

If there has been unwarranted publication there is in all breaches of privacy there's almost nothing you can do the damage has happened and that's the problem.

So I'm not sure that there's a remedy that's possible other than some kind of action as part of a compliance framework would be my answer.

Steve Metalitz: Okay thank you, I see Michele .

Michele Neylon: Thanks, Michele again. See this is part, you know, if we start going down the road of unwarranted publication or unwarranted whatever we're opening up a

massive can of worms because one could argue and I'm not going to before anybody jumps down my throat but one could argue that any publication without, you know, following particular things within a particular legal framework is unwarranted.

I would be, I'm just wary of going down that route because, you know, they - I just see this causing us more headaches than anything else and not something I'd really want to get into, thanks.

Steve Metalitz: Thank you Michele . Mary has pointed out in the chat that this question, the question about what if any should be the remedies is in the charter. So I think it's fair to throw that out there to the public but I think that embraces the point that (Darcy) raised here.

So unless there's objection can we move on to there's one comment here about Section 7. (Stephanie) go ahead. (Stephanie) we're not hearing you so let's put your comment aside let us know when you're able to make it or enter it in the chat.

Section 7 this is an editorial point about (unintelligible) - I'm sorry what was that?

Stephanie Perrin: Hello.

Steve Metalitz: (Stephanie) go ahead.

Stephanie Perrin: You can hear me now?

Steve Metalitz: I can hear you now.

Stephanie Perrin: Preparing for the record I'm responding to Michele 's comment about the not wanting to go down the road of remedies for the customer in the event of what amounts to a privacy breach as Holly pointed out.

Damages is what you get in many jurisdictions and it's a breach. Under privacy law I would say in many jurisdictions so I'm just suggesting that we make some kind of comment to that effect that we haven't dealt with it, there should be a remedy for the customer.

Steve Metalitz: Okay thank you, we have in this section this question out there. So I'm going to cut off this - is somebody trying to speak I can't understand?

Man: That's (Stephanie)'s line I think. There we go.

Steve Metalitz: (Stephanie) are you back?

Mary Wong: I think it's her line.

Steve Metalitz: Okay I'm going to cut off the discussion here. The question is out there so we'll be getting the public's input on it. The point on Section 7 this is an editorial one about the transition sentence. I'm going to recommend that we leave that to the staff.

And then on Annex E these are mostly editorial as to whether we still need to retain the reference to a German notarized document, whether we should flag and I would certainly agree with this.

We have one area where we haven't specified a number of days for the provider after receiving feedback from the customer to get back to the requestor. That certainly seems to be something we should call to people's attention.

And then the last point here is about the bracketed language and again just to remind folks we took off all the brackets in the Annex except where we're proposing alternative language.

But everything in the Annex and in the entire paper of course or the entire draft report is up for public comment. I'm seeing (Stephanie) here, should we try this again (Stephanie) go ahead.

Maybe that's an old hand because I see in this chat I have said what I had to say. Okay, Kathy you have your hand up go ahead.

Kathy Kleinman: Hi Steve yes, some of this language has been around for a long time and I'm not sure I would remove it at this point. So the German notarized document, you know, I think we should keep it that's been there for a long time. I don't we think we lose anything by having it.

And is Section 3b is that a call for us to state a number of days now or to highlight that it's going up for public comment? I'd be in support of the latter highlighting then it's going for public comment.

Steve Metalitz: I think it's the latter.

Kathy Kleinman: Okay and I wasn't sure what the 3f question was so.

Steve Metalitz: Three f was about the appeal issue and it had been bracketed but I think we all recognized that that's open for public comment on, you know, on the appeal question.

And as I said we're trying to reserve brackets for where we actually have alternative formulations of language and we're asking people as in the language that we talked about at the beginning of this call.

You know, tell us which formulation you like best.

Kathy Kleinman: Right.

Steve Metalitz: Okay, all right and on the references of the German document is Volker on the call? Volker is not on the call.

Man: He's on vacation.

Michele Neylon: He's in Japan.

Steve Metalitz: I'm a bit hesitant to remove his German language that he put in there in the early days of this process and without consulting him. I'm not sure that we'll be able to do that before we publish the draft report but let's plan to retain that unless we can get his, get some input from him on that.

Okay so I think this completes this document and I think it's time to move to the next one which was (Kathy)'s the comments that Kathy sent in last night. If Mary if you could put that up on the screen now.

And Kathy I see your hand is up I don't know if that's an old hand or if you wanted to talk about what you put forward here. I'm glad to let you have a minute on the latter if you wish.

Kathy Kleinman: Terrific thanks that's an old hand but current topic so thank you. Okay I think we've covered one and two already. So page numbers and footnotes that's, so I appreciate Mary including that.

So now we're on 1.3.3 so we're in the excerpt from the executive summary which is it sounds like what everyone is going to be reading and what may be the only thing translated.

Although Steve if we might in addition to timelines if we could talk about translations at the end of this call I think that would be really important.

Steve Metalitz: Okay.



Kathy Kleinman: So what struck me as I read the executive summary now is that I didn't recognize a lot of it and especially 1.3.3, which is specific topics on which there is currently no consensus within the working group.

Of course we drafted this executive summary quite a while ago and it was before we really launched into some of the end of the relay work and some of the reveal work.

And so this is the ideal opportunity to highlight what we need in the reveal and the issues that we have not reached consensus on which is essentially all the bracketed language some of which including stuff that went in last week is enormous implications and may override legal rights and protections.

So I think what we should do in 1.3.3 is highlight what we have no consensus on and particularly focus on the reveal. And so I've tried to draft something that would do that.

So one of the things, so if you look down to the paragraph in the middle it's the opening of 1.3.3. After specific topics on which there is no consensus let's add something like the working group has yet, has not yet reached final preliminary conclusions on key details of the reveal recommendations, see Annex 3 and who people where they are.

We should really be highlighting where that is. There are many details still under discussion and it looks like we're missing something over there. There are many details still under discussion and for which the working group has not reached consensus.

These include, you know, what remedies should a customer be allowed. I think we were just talking about an event a reveal request was falsely made.

Second one and this is one that really hasn't been highlighted but there's still an open issue should requestors be allowed to escalate each and every

rejection of a reveal request for a third-party forum or should the working group be seeking reasonable standards and thresholds for such appeals to avoid unnecessary and potentially harassing and time consuming appeals?

What rights and protections should a customer be allowed and encouraged to set forward in his or her defense to provide a reasonable defense for maintaining his/her its privacy. This is one of the issues that's in all in brackets in Annex E in our draft.

How can customers be protected from requests from law enforcement from outside their countries when the issue of their domain name is for legal purposes in their own countries but perhaps purposes deemed illegal in other countries.

I thought we'd highlight here something that we've talked about but it would be very interesting to hear references to, you know, to get input from others especially since we're leaving the whole law enforcement section open.

Steve do you want me stop there before we get to the whole issue of transactions?

Steve Metalitz: Yes, yes we have a few in here so let me ask (Todd) and then Mary.

Todd Williams: Thanks (Todd Williams) for the transcript. I sent an email on this to the group before the call but I have not yet seen it pop up in my email so I'm assuming that it hasn't popped up in everybody else's and if it has I apologize for the redundancy.

But as I look through these four questions I have two concerns. One, we have highlighted in brackets where there is language that is in dispute. And I'm not sure that these questions necessarily tie back in all cases to where there are alternative formulations that are on the table.

To the extent that they do I would say they're redundant because we've already highlighted that.

My second concern is I would think that the objective of the initial report would be to present our recommendations/findings for public comment in as objective a way as possible and these four questions I don't think do that.

I think they are written in a way that begs the answer. And in that sense would be more appropriate perhaps for an additional written statement rather than what is going out from the group as a whole.

But in any case I think we have in most cases where there is alternative formulations that have been debated among our group I think we have highlighted that already, thanks.

Steve Metalitz: Thank you (Todd), Mary I think I see your hand up go ahead.

Mary Wong: Yes thank you Steve. Thanks Kathy for the suggestions. I guess just two points following up with (Todd) that first of all I think these additions seem to do more with the working groups' open questions on disclosure and publication or, you know, what was previously known as review, which is actually in 1.3.2, not 1.3.3.

So maybe the suggestion that the staff action there is that we need to make it clear what 1.3.2 addresses, which is the remaining questions that we haven't yet gotten fully through on review and what 1.3.3 addresses which is one very specific topic on the commercial, non-commercial distinction that the working group clearly after several weeks of discussion last year had no agreement.

So I think that's the first point to maybe just make clear that 3.2 and 3.3 talk about different things and that may be helpful in the additions that you're suggesting.

Secondly in terms of the additions, some of this seems to have been discussed by the working group either as part of this initial discussion of the templates that were filled out for each of these related charter questions or at least in part when the illustrated disclosure framework was proposed.

So I think if we're going to put them at all we would suggest them putting them in 1.3.2 but we would ask the working group to consider will there be the questions that have already been discussed and if not what the form is that we should put them in, thanks Steve.

Steve Metalitz: Okay thank you. Let me just say from my perspective I think, I do think a lot of this reads much more like an additional statement, you know, proposing the questions that you would like to see the public address in their comments rather than a presentation of what we've come up with so far.

I'm certainly happy to have something in there that directs people's attention to Annex E and urges them to look at that and provide public comments on everything in Annex E.

But I'd say I share (Todd)'s concern that this does not belong in our - we're obviously not going to achieve consensus in the next six minutes on these statements or these questions most of which are closer to statements.

And so I would just encourage you to include that if you want to put in an additional comment that would go out with the draft report. As you know in our timetable we provided for that if any working group members wants to put in a brief statement of what they think are the critical questions that they can do so and that's my view on this.

James I see is that a new hand? That is a new hand so James go ahead and then Kathy your hand is still up and...

Kathy Kleinman: It's a new hand Steve.

Steve Metalitz: Okay, so James and then Kathy.

James Baskin: James Baskin here. I think I'd support the questions I think they're all valid questions. I'm not sure what (Kathy)'s drive to have them in any specific section I'd leave that to her to, you know, describe.

But I very much support them going out with the public comment as I believe that they are all questions that a working group can benefit from having to (unintelligible) from the public comment period.

Steve Metalitz: Thank you, you would also include them in your additional comments. Kathy go ahead.

Kathy Kleinman: Okay, Steve I would like to highlight and I think we should make sure that there is no agreement on limited appeals for requestors to third-parties. That's been an issue that's been highlighted throughout.

So if we could please highlight that that's not an agreement. If you want to move or if Mary wants to move some of this to 1.3.2 that's fine but I don't think we're highlighting Annex E enough.

But let me go on to 1.3.3 because talk about things that are leading I think 1.3.3 is a very leading section because I don't think it really balances what's being talked about here. And I think it offers a solution from the co-chairs that is not a solution that's been embraced by the group.

So I'd like to if we're putting this out and this is what's going to be translated I would strongly like to recommend the addition of language that says, and hear what we're doing in 1.3.3 is it seems to be, it seems like the only issue we have no consensus on and I don't know if I agree with that is whether somehow we should be not allowing proxy privacy transactions for proxy

privacy use for domains used for commercial purposes involving some kind of financial transaction.

And we really haven't put the details in that we talked about although it seems very leading, this whole section is very leading to almost one type of answer. So we should probably recommend adding and if you page down to my second page of comments there's a paragraph that says in addition and that's the existing text.

And then it says add or I should say please add, other members of the working group noted that fundraising and membership drives are often performed by the very groups and organizations seeking proxy privacy registration for protection including minority political groups, minority religious organizations, ethnic groups and I'll let you read the rest of the list.

These groups and their representatives note that in the laws of their countries the mere collection of a donation or membership fee does not change their status from non-commercial to commercial.

Further, many of these organizations conduct their financial transactions through third-party commerce company's such as PayPal and thus they're not processing the financial transactions directly.

Accordingly many in the working group submit there is no reason to breach the proxy privacy of registrations in groups for this reason. The reason, you know, just because they're involved in transactions they shouldn't have proxy privacy.

They note further that many in the working group submit that content regulation is beyond the scope of ICANN and probably the scope of national laws.

This is something we discussed a million times and I would like to strongly ask that it be added to 1.3.3 for a balanced review as this is the section the whole world is reading. Let them please read all sides.

Steve Metalitz: Okay, I'll - we're just about out of time but if people have a response to or want to comment on what Kathy just said as far as adding this to 1.3.3 I guess this is right?

I mean I think the questions are out there and you proposed an answer here, which I think I'm sure people will be hearing that viewpoint and I'm...

Vicky Sheckler: Hey Steve it's (Vic) I've got my hand up. (Vicki).

Steve Metalitz: (Vicki) go ahead I didn't see your hand up.

Vicky Sheckler: I strongly disagree with including that in the executive summary. I think the best place for a statement like that is in the additional comments that Steve had proposed earlier.

You know, there is I would say a minority group within this working group that agrees with (Kathy)'s position and so therefore I think it should be set up as a separate question in commentary and not within this section.

And in (unintelligible) I don't remember discussing this issue before but I know I haven't been on all the calls.

Steve Metalitz: Okay, we're about out of time here and I just did want to make a final point here about the timelines. We've seen a lot of discussion on the list about whether the time should be extended and the chairs are going to take that under advisement and try to figure out what would be the impact of extending the normal 40 day comment period to 60 days as a couple members of the, several members of the working group requested.

So we'll try to resolve that today if we can. And then on the issue of translations that has come up I think it would be helpful and I'll ask the staff if they can - since we know we have an executive summary document that's pretty much stable now and so we know its length.

Maybe they can get a ballpark estimate of how long it would take to get that translated into the UN languages because as I understand it that is the procedure.

And I think the working group guidelines make it clear that that doesn't delay posting of the English language version but I think it is a fair question how quickly can we get the translated executive summaries up for everybody to look at.

I will also say since we're a little past the hour now that again people under the timeline that we've set up people will have until the end of the day, the end of their day Thursday to if they have an additional comment that they want included in the, to go out with the draft report I would ask that people keep it concise if possible one or at most two pages.

Again that's your call but I think that would be most helpful. Holly I see you have your hand up so let me let you have the last word on this call.

Holly Raiche: I'm just asking what the rush is, we've already got a call for a longer comment period which would mean we're not going to meet discussing the deadlines we're discussing in BA what the comments are.

This draft still has a lot of work because there's a lot of I would say differing views and I'm just wondering why we are rushing this so badly when in fact we really could give ourselves the time to come up with something that everybody is happy with.



I'm just really conscious that people don't agree and maybe we just need more time. I mean the - why are we treating the deadline as gospel when in fact we've had a lot of people on the list today think we ought to have a longer period of time in which case we can give ourselves another week. Just really is a serious question, thank you.

Steve Metalitz: Well thank you for raising the question. I don't agree with your characterization of what's been on the list. The list has been about the timeline for comments.

Holly Raiche: Yes exactly.

Steve Metalitz: Yes and whether it should be 40 days or 60 days. We're going to look at that and try to make a decision on that today. But we've had this deadline of trying to get the report out next Monday for several weeks now and people had time to review the document and people came up with including you came up with a lot of very substantive comments, which I think we've gone through today and have made some improvements in the document.

It's not going to be perfect and frankly if somebody that's been in I think 66 of these meetings I don't think the idea that we've if we only had another week or two we would all agree on this. I don't - I think that's fanciful.

Holly Raiche: Okay.

Steve Metalitz: So I think that's my take on this. I welcome (Vicki) is that a new hand or an old hand? Okay I'm going to take that as an old hand. Mary let me let you have the last word since we're already over time here.

Mary Wong: Thank you Steve and just real quickly. I just wanted to emphasize that the deadline for the group is driven in large part because of the need to have this implemented by January 1, 2017.

As I think we've noted when discussing the work plan the best case scenario if we do meet our original deadline of submitting the final report to the GNSO council in September is that the council and then the board adopts our recommendations without much question by say January.

That leaves less than 12 months to design the entire accreditation framework to notify all the providers and affected parties who may need to update and change their procedures.

And ICANN does try to give a few months' notice of those things. So I think looking at it from an overall timeline into implementation we really are running up against a very tight timeline, thank Steve.

Steve Metalitz: Okay thank you and I thank everybody for their contributions today I think we accomplished a great deal and as I said we will be getting back the chairs will be discussing these timeline issues and getting back to you hopefully today on any changes there.

So with that I'll call this meeting to a close and thanks everybody for your participation.

Mary Wong: Thank you.

Coordinator: Once again the meeting has been adjourned. Thank you very much for joining. Please remember to disconnect all remaining lines. (Francesca) if you can please stop the recording. Have a wonderful rest of your day.

END