

**WHOIS Study Group
Teleconference
TRANSCRIPTION
Tuesday 29 July 2008 15:00 UTC**

Note: The following is the output of transcribing from an audio recording of the WHOIS Study Group teleconference on 29 July, 2008, at 15:00 UTC. Although the transcription is largely accurate, in some cases it is incomplete or inaccurate due to inaudible passages or transcription errors. It is posted as an aid to understanding the proceedings at the meeting, but should not be treated as an authoritative record. The audio is also available at:

<http://audio.icann.org/gnso/gnso-whois-20080729.mp3>

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

Meeting recap by Chuck Gomes

<http://forum.icann.org/lists/gnso-whois-study/msg00111.html>

WIKI reference:

https://st.icann.org/whois-hypoth-wg/index.cgi?whois_hypotheses_wg

Participants present:

Chuck Gomes - GNSO Council vice chair -gTLD Registry C

David Maher - gTLD Registry C

Ken Stubbs - gTLD Registry C

Jordi Iparraguirre - Registry C

Adam Palmer - PIR gTLD Registry C

Steve Metalitz - IPC

Steve DelBianco - CBUC

James Bladel - Registrar

Paul Stahura - Registrar

Alan Greenberg - ALAC Liaison on the GNSO Council

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Teleconference transcriptions, recordings and dates are also found on the calendar page.

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Metalitz - IPC Steve DelBianco - CBUC James Bladel - Registrar Paul Stahura - Registrar Alan

Greenberg - ALAC Liaison on the GNSO Council Olga Cavalli - NomCom Appointee

ICANN Staff:

Liz Gasster

Patrick Jones

Glen de Saint Géry

Absent apologies

Lee Eulgen - IPC

Wendy Seltzer - ALAC Liaison on the ICANN Board Eric Brunner-Williams -Registrar Tony Harris -
ISP

Chuck Gomes: ...of volunteers, everyone one of you got your stuff in and so hopefully everybody's on Wiki or whatever way you like to handle that so that we can proceed. (Liz) says she is already to go. So Glen why don't you do a quick roll call?

Glen DeSaintgery: I'll do that with pleasure, (Chuck). We have Chuck Gomes, the leader of the call from the Greater (unintelligible) Constituency; (Olga Cavelli), nominating committee appointee; Adam Palmer, (unintelligible); (James Bladell), registrar; (Steve Del Bianco) , D.C.; Allen Greenburg, (unintelligible), and from staff we have (Liz Gasster) and (Patrick Jones), (David Maher) from the registry constituency (Steve Metalitz), (IPC) and (Jordi) from the Registry Constituency.

Woman: (Unintelligible) joins the conference?

Glen DeSaintgery: And (unintelligible) now from registrar.

(Chuck Holmes):I think this (Paul)'s first time. Welcome (Paul).

(Paul): It is, hello.

Chuck Gomes: So welcome to everybody and again like I said, (Tony Harris) submitted his draft hypothesis for Area 5 but he indicated that he would probably be late. So we won't wait for him. Any questions on the

agenda, any comments on the agenda. It's pretty much continuing like we have done in the past.

If not, then I didn't see any - I don't believe I saw any discussion on the list regarding the hypothesis that we worked through last week which including the rest of Area 2, Area 3 - all of Area 3 and Area 4. Any comments on those or can we consider those closed for now?

All right. Then we will move ahead to Area 5 and (Tony Harris) submitted some hypotheses there. So let's take a look at those in the Wiki and - here we go.

Okay that happened. I was logged onto that part of the Wiki separate from the agenda and it disappeared on me. So I will bring it up again. Bear with me...

(Steve Metalitz): Chuck, this is (Steve Metalitz). Could...

Chuck Gomes: Go ahead Steve.

(Steve Metalitz): When did (Tony) send this in because I don't think I received anything.

Chuck Gomes: You know what?

(Steve Metalitz): Or else if I did...

Chuck Gomes: I didn't look very closely, Steve, because he sent it to me and asked me for some feedback. I thought he had sent it to the whole list but I didn't really check that. He asked me to put it in the Wiki so it's in the

Wiki. Okay, so if you're online in the Wiki. Now if somebody can't get online with the Wiki I can...

(Steve Metalitz): I've never been able to find anything in the Wiki but I'll give it another try.

Chuck Gomes: Okay, I'll see if I can help you on that. I'm not as good with the Wiki as (Avry) is. So probably part of that is that she would do a lot of things in it...

(Female): It's actually not that easy to edit in the Wiki I have to say.

Chuck Gomes: You know it's not, I agree and I - certainly isn't easy for me but I think I got it all in there. So...

Liz Gasster: Yeah, (Avri) is the master. I agree.

Chuck Gomes: I'm sure there may be better Wikis that are available but it does serve a purpose. All right, I got the table back up for me and we'll start with Area 5. Now, what I tried to do, even though others that submitted things, I included some of the old hypothesis so you don't have to look multiple places.

Now, Steve, (Steve Metalitz), are you in the Wiki?

(Steve Metalitz): I am.

Chuck Gomes: And you're in and you see the agenda towards the beginning there, right for the 29th?

(Steve Metalitz): Yes.

Chuck Gomes: And if you'll scroll way down to the table. You have to go through all the old agendas and everything. You get down to the, I think where it says meeting notes or something and you'll the table and we're going to go to Area 5.

(Steve Metalitz): I see several meeting notes but...

Chuck Gomes: Yes. No table?

(Steve Metalitz): No.

Liz Gasster: No.

(Unintelligible)

Man: Pardon me?

Liz Gasster: It's right at the bottom, Steve.

(Steve Metalitz): I see projects.

Chuck Gomes: Well, mine begins with meeting - where it says meeting notes, the table starts right after that. Meeting notes in bold. You don't see that, huh?

(Steve Metalitz): Meeting notes 8 July 2008?

Chuck Gomes: Eight July and it says. It just says meeting notes.

Liz Gasster: Yeah, beyond that. Beyond that Steve. Beyond 8 July. Keep going down.

(Steve Metalitz): I don't see meeting notes in...

Liz Gasster: What do you have after 8 July? You should have notes and...

(Steve Metalitz): A lot of text.

Liz Gasster: Bunch of text so keep going down. What's at the very end of the text that you see?

(Steve Metalitz): Then I have projects. Add project to your and then I have my one contribution to this which was made on July 5th.

Chuck Gomes: Actually, I see the table above some meeting notes for 8 July. I'm not sure what's...

Liz Gasster: I show it below the 8 July meeting notes.

Chuck Gomes: Why would it...

(Steve Metalitz): Now, I see a table above meeting notes.

Chuck Gomes: Yeah.

(Steve Metalitz): Scroll up to Area 5. I do see some things that say Tony's. So I think I'm there.

Chuck Gomes: You're there.

Liz Gasster: You're there right.

Chuck Gomes: Okay, good. Good, okay. Yeah this is one of the awkward things and probably if I was better at it I could organize it better but anyway. Let's go with Area 5.

Now, the - for Area 5 first is Study 6 and then possibly combine with that (unintelligible) recommendation 1 and the - if we go to what - let me quickly go through for that area. Study 6 was submitted by - scroll down, right by it - Study 6 was submitted by (Milton Mueller) and study was a more restrictive who is data policies lead to more crime and abuse by comparing crime abuse levels on a percentage basis across two or more CCTLDs with different and/or more restrictive who is.

Now, if you look at the thing in the table there. Let's skip over Tony's for a moment. What I included there so that you could see it all on one place. So the original hypothesis stated by (Milton) was CCTLDs that shield some who is data of natural persons produce no appreciable differences in the levels of cybercrime in the domain and do not impair enforcement efforts. And then I had - and actually I think that's not a badly worded hypothesis right there and I had included what I had put in there too.

I actually broke it down into two. More restrictive who is display requirements will lead to more crime and abuse and b, use of proxy or privacy registration services limits legitimate uses of CCLTD who is data. And then what Tony submitted is at the beginning there for 6, the concealment of who is registrant data that is not publicly displayed in some GTLDs has no affect on domain cybercrime activity levels and

the resulting law enforcement actions. And then for GAK 1, he said the legitimate use of GTLD who is data is curtailed or prevented by the use of proxy and privacy registration services.

So let me open it up for discussion.

(Steve Metalitz): This is (Steve Metalitz).

Chuck Gomes: Go ahead Steve.

(Steve Metalitz): My concern with both your formulation and Milton's formulation for 6 is it implies causation. He said (ECTLDs) that shield some (unintelligible) who is data produced no appreciable differences and you say who is registration data has no effect. I don't think - I think you're assuming there's a cause and effect relationship there which I would question whether who is policy is going to be the main issue in whether or not there's a lot of crime and abuse.

Chuck Gomes: But isn't that what the hypothesis was?

(Steve Metalitz): No, you're assuming that if you have - if you associate a level of crime and abuse with a who is policy that there's a cause and effect relationship. What's the basis for assuming that?

Chuck Gomes: I'm not sure I'm following you.

(Steve Metalitz): Let me give you an example...

Chuck Gomes: Okay.

(Steve Metalitz): ...because if you say there's less fishing in dot, I don't know, dot vi is a CCTLD than there is in dot com. And I see that dot vi, let's assume, has more restrictive who is access policies than dot com. I'm assuming it does. Therefore, the concealment of who is registered data has no affect on cybercrime activity levels in dot vi but the fact is nobody would waste their time setting up the fishing site in dot vi and trying to encourage people to come there thinking that they're really coming to a bank site. You know they wouldn't put Bank of America dot vi or PayPal dot vi. They do that in dot com because (unintelligible) people can be deceived into thinking that they're going to a legitimate site...

Chuck Gomes: Okay. ..

(Steve Metalitz): (Unintelligible) who is.

Chuck Gomes: I follow you on that but isn't it in the proposed study, isn't the proposed study whether it's right or not and whether there is causation or not. I understand that part.

(Paul): Would that study be connected to the causation I agree with Steve. This is (Paul) speaking. You know crime could be completely due to something else totally outside of who is so I don't see why this study will determine what the cause is...

Chuck Gomes: And by the way...

(Paul): ...when it's not correct.

Chuck Gomes: I agree with that but my interpretation of (Milton's) proposal is, is that's what he was suggesting.

(Steve Metalitz): I think that's right and that's why those of us who actually examine these proposals in the earlier group concluded that this was one that should not be pursued.

If we're going to create hypotheses even for ones that we don't think should be pursued, this just assumes that there is a causal relationship.

Chuck Gomes: And I understand that. So I'm not disagreeing with you on that. Obviously what I was trying to do in what I did was to capture what I thought his intent was. Whether that's something we should pursue or not, as you know, is a different question.

So let's see, let's talk about how we might be able to modify that to...

(David Morhed): Chuck, this is (David).

Chuck Gomes: Go ahead (David).

(David Morhed): Perhaps the question should be whether the hypothesis is that there is a causal relationship or there is not a causal relationship.

Chuck Gomes: So how would you word that? You're suggesting a hypothesis with regard to the causal relationship.

(David Morhed): Yep.

Chuck Gomes: Okay.

(David Morhed): I agree with (Steve) that the hypothesis we're currently talking about assumes that there is a casual relationship but I, in my mind there's a question whether or not there is one.

Chuck Gomes: Okay. So take a stab at wording on that (David) as a hypothesis.

(David Morhed): I would very simply a concealment who is registering data that is not publicly displayed has a causal relationship to cybercrime activity levels.

Chuck Gomes: Steve, what do you think of that?

(Steve Metalitz): Well, I'm not sure how you would study that.

Chuck Gomes: I understand that. All we really need to do here is do the hypothesis. Now if we find at the council level that it's, you know really doesn't make any sense to - there's no way of studying that or when we ask to staff to analyze it a little bit we can deal with that but for right now, let's try and formulate a hypothesis that appropriately addresses the proposed study.

(Paul): It's not easy because the hypothesis you come up and it sounds silly but it would be something like, you know, more - displaying of more who is causes cybercrime. Displaying of less who is causes less cybercrime.

Chuck Gomes: Yeah, either way works for a hypothesis because the testing would be the same whichever way you worded it.

Steve: Make a comment on that.

Chuck Gomes: Sure. Go ahead Steve.

Steve: I share the comments earlier that this is a sort of a nuisance study suggestion and it's done for clever purposes more than for true discovery but having said that, the way (Milton) wrote it up. He tried to avoid implying causation and talked about the statistically significant correlation. So one potential way to phrase the hypothesis is there is a statistically significant correlation between the restrictiveness of CCDLD who is policies and the level of abuse in the domain name. Saying statistically significant you're not even implying not cause and effect. You're just asking a statistician determines that of all the variables that correlate with the level of abuse that he thinks that who is data policy would have a high statistical significance.

Chuck Gomes: How do people feel about that approach?

(Paul): I think it's laughable too.

(Steve Del Bianco): It's all laughable but if we imply cause and effect. It's the way we state the hypothesis we are open to criticism for having twisted what was already a twisted hypothesis to begin with.

(Paul): I hear what you're saying but it's like - we could have a tail be out there that's totally open to who is and there's absolutely no cybercrime because there might be one name in it. That doesn't mean anything.

Are we trying to get to the truth or we're trying to like imply that, you know, a lot of who is causes crime and less who is doesn't? Let's just ask the question. Make the hypothesis.

I agree with (David).

Liz Gasster: So this is(Liz). It sounds like the two options are either to (Paul) and (David) would be something like public display of who is causes cybercrime and for (Steve Del Bianco) there is a statistically significant correlation between the public display of who is and cybercrime.

Man: Right.

Chuck Gomes: How are those different?

(Steve Del Bianco): Statistical significant implies nothing about cause and effect. It's a simple regression analysis and if you get a high (unintelligible) score you would that there's x percent chance that there's a relationship between the two. That's all.

Chuck Gomes: Okay.

(Steve Del Bianco): It's something they will run with as a statistician...

Chuck Gomes: No, I understand that part.

(Steve Del Bianco): And it would also be meaningless, right (unintelligible).

(Paul): I agree. It's just like saying, you know, there's a higher proportion of black people in prison in the United States. Does that mean black people are causing all the crime or more black people cause crime than white people? No.

Chuck Gomes: Again, lets - one of the things we have to be careful of is to whether we agree with a study being done or not or whether it even can be done effectively, our goal in this group is to create well-defined brief hypotheses that could be tested if we so decided.

Go ahead.

Man: I agree with that.

Chuck Gomes: So what we need to do here is to formulate a hypothesis that we can put forward to the council for this study. It'll be the council's responsibility in working with the various constituencies to decide whether it should be sued or whether it is even feasible.

Liz Gasster: Well is this one where we might want to go back to Milton real quick and say...

(Steve Del Bianco): Let him choose from the two. He'll pick the correlation one.

Chuck Gomes: That would be. Is anybody opposed to that?

(Steve Metalitz): If you go back to what he submitted on January 17th and when he is asked how the hypothesis could be falsified. He had the hypothesis the other way that CCTLD is the shield sub who is data produced no appreciable difference levels of cybercrime. He has produced but he says how the hypothesis could be falsified. If you found a statistically significant correlation between more restrictive CCTLD who is policies and levels of abuse in a domain then the null hypothesis would be falsified.

Liz Gasster: So it sounds like that's the one to go with and with the caveat that many of who won't support it.

Chuck Gomes: And that's okay that this may not be a study we want to move forward with but that's not this group's task.

(Steve Del Bianco): And I would add, this is Steve, that even if a statistically significant correlation came back it implies nothing about cause and effect and would therefore not even inform policymaking at ICANN. Sort of a throw away even if you did it.

Chuck Gomes: So let's go back to the one (Steve Metalitz) from Milton himself. Would you read that again?

(Steve Metalitz): Let's see. You found a statistically significant correlation between more restrictive CCTLD who is policies and levels of abuse in a domain than the null hypothesis would be falsified.

Chuck Gomes: So that's pretty similar to what (Steve Del Bianco) said. Is that right?

(Steve Metalitz): I think he would, to put as a hypothesis you would say there is or is not a statistically significant correlation between more restrictive CCTLD who is policies and levels of abuse in a domain, in a registry here.

Chuck Gomes: And I think that captures - it sounds like it captures what (Milton) was intending. Now please even if you disagree that it's a fruitful study or anything else does that capture the proposed study?

Anybody disagree with that?

Liz Gasster: Steve, just make sure I've got it. If I say there is a statistically significant correlation between more restrictive CCTLD who is policies and cybercrimes.

(Steve Metalitz): And levels of abuse or levels of a cybercrime in a domain.

Liz Gasster: Okay.

Chuck Gomes: Anybody have a problem with that wording for the hypothesis?

(Paul): It won't tell us anything.

Chuck Gomes: That's fine. Okay.

(Paul): I hear you but it's kind of like, it's going to be used to imply that, you know, if it comes out one way or the other way. Either one side is going to use it to imply something or the other side's going to use it to imply something.

Chuck Gomes: I understand.

(Paul): Which doesn't help us. That's my problem with it.

Chuck Gomes: I understand that and that decision, though, is going to be made in the next step in the process or this (unintelligible). So...

(Paul): I hear what you're saying but that's the problem with it...

Chuck Gomes: (Paul), let me ask you a question.

(Paul): ...It's the whole problem I thought we were trying to (unintelligible), to avoid.

Chuck Gomes: What is that?

((Crosstalk))

Chuck Gomes: Are we trying to avoid?

(Steve Del Bianco): Use these studies to draw false conclusions.

Chuck Gomes: We do want to avoid that but it's not the task of this working group to make that decision. The task of this working group is to form brief, clear hypotheses that'll facilitate making decisions whether we proceed with any studies or not. So, all right, (Liz) , you have that then?

Liz Gasster: Yes, I do.

Chuck Gomes: Any other comments on that?

Now in terms of GAK study 1, I had kind of lumped it in with this one and maybe that should be done or maybe not. We shouldn't assume that it should be. The GAK recommendation 1 was to what extent are the legitimate uses of GTLD who is data curtailed or prevented by use of proxy or privacy registration services.

Now, it really is a little bit different as I look at it again. What are your thoughts on that? Should that be treated separately or combined with 6?

(Steve Metalitz): I think that should be separate. Don't we have other proxy and privacy (unintelligible) restrictive services hypotheses?

Chuck Gomes: Yeah, I do. So we should treat GAK recommendation 1 separate the - so if we do that, now what Tony said there was that for one the legitimate use of GTLD who is data curtailed or prevented by the use of proxy and privacy registration services.

(Steve Metalitz): This seems to go more with the next one doesn't it which deals with proxy and private registration.

Chuck Gomes: It may be and so I think I am uncomfortable with where I placed it as well right now. So I think you're right and just jumping ahead to Study 13 where he said proxy and concealed who is records complicate investigation and notice. It does go with it but it's maybe subtly different anyway. So, all right, so we won't combine GAK 1 with 6 unless somebody disagrees with that. And so I think we're done with 6 for now. Okay?

And let's go, we'll keep GAK 1 in our back pocket here and decide what to do with that. Let's go to Study 13 and the original hypothesis was proxy and private who is records make the investigation and takedown of fishing sites difficult for a number of reasons. One if the fish site is hosted on a legitimate domain. For example, because the domain's web server was hacked by the (fisher) it can be difficult to contact the owner of the domain to help him or her rectify the problem.

Number 2 the contact information of who is record is often beneficial for disabling domains that were registered specifically for fishing. This

is because the person in the contact information often knows nothing about the domain. When that contact information is hidden behind proxy and private who is records proving that the owner of the domain knows nothing about the domain is more difficult. Both of these scenarios lengthen the time it takes to disable fish sites once they have been discovered.

Now, obviously that's a lot more than just a hypothesis but that what was provided. I had simplified it to two things. fishing Web sites tend to be hosted on private proxy domains and be domain names registered using proxy or privacy services are more apt to be associated with fraud or other legal activity than the domain names not using such services. And then Tony, for Study 13, had said, proxy and concealed who is records complicate investigation and notice and takedown procedures involving voluntary and involuntary infringers by setting up an intermediary holder of this data which is urgently needed in order to be disable cybercrime activity.

Let's let GAK 11 alone for now and let's talk about 13, Study 13.
Comments?

(Steve Metalitz): It might be a little simpler just to say, just looking at the original here. Proxy and concealed who is records complicate the investigation and remediation of fishing sites.

Chuck Gomes: That sounds pretty good to me. What do others think?

(Paul): I like what you said, Chuck, splitting into the two things you said. That gets to the nut of it, in my opinion, more because what (Steve) just said we'd have to have another one that talked about the benefits of

proxy who is. Why are people, small businesses, whatever choosing proxy who is services? So we'd have to have something that was on that side too.

Chuck Gomes: Other comments. And again, we want to try and make sure we're capturing what the original proposer of the study was trying to propose there. So what - they're not mutually exclusive in terms of what (Steve) said and what I said. It's just different wording I think and what Tony said too. His is kind of similar to what (Steve) did.

(Steve Metalitz): I was just trying to kind of simplify what Tony has.

Chuck Gomes: Yeah, right, right. So (Paul) that you prefer the two that I listed under mine down below in contrast to what Tony and (Steve) have said. Is there any way of combining those to capture the same thing? Or are they kind of - are they pretty similar?

(Paul): I'm just saying if we - if there's - let's say the hypothesis some prove that some negative benefit for proxy who is. That doesn't mean we should get rid of proxy who is because it might be something else that has a greater positive benefit; but, yet we don't have a study that shows that.

So that's why I'm saying we should find out how many fishing sites use proxy who is. The hypothesis every proxy who is is a fishing site or the hypothesis could be less than 0.01 percent of proxy registrations are fish sites. Figure that out. Let's see.

Are there a lot of proxy who is better involved in fishing or is it hardly any? It might be true that for less than 0.1 percent those are harder to

take down because of fishing not because of proxy; but should we (unintelligible) out the baby with the bath water because of this fishing issue. That's my - why don't we study that?

Chuck Gomes: Steve, did you start to say something to?

(Steve Metalitz): Well, again, I'm just going back to look at what the APWG submitted. They're the source of this and they say, just looking at their topic. One of their topics is we would like to determine a proxy or private registration negatively impacts the time required to get a fishing site disabled. That, I think is pretty close to what Tony had and what I tried to simplify. In fact, you could even just put it that way whether a proxy or private registration negatively impacts the time required to get a fishing site disabled. Maybe that's the simplest way to put it.

Then they also say, we would like to see a study on the use of proxy and private registrations whether or not the occurrence of these types of registrations is increasing and how much the domains registered using private proxy or private registrations are used for fishing. That's kind of closer to I think what (Paul)'s talking about which would be the hypothesis that, I don't know you could do either way.

Proxy registrations are never used for fishing and then you would disprove that and you would show that what the percentage is. Or you could say they're always used for fishing. You would disprove that and you'd show what the percentage.

Chuck Gomes: In fact, there could be three different hypothesis in this one as I'm looking at it here. Certainly, I think you're right, that what Tony captured is a separate hypothesis.

(Steve Metalitz): Yeah, it doesn't get to the proportions. It just says when there is a fishing site associated with a proxy registration. It has a certain consequence.

Chuck Gomes: And the second hypothesis, I've put seems to be in there that domain names registered using proxy or private services are more apt to be associated with fraud or other legal activity than domain names not using such services.

(Steve Del Bianco): I agree with it but (Steve) just said if we had added another study that said - that compared the time it took for a non-proxy registration to find that (fisher) guy, how much more time is the proxy registration adding to finding the (fisher) guy?

Chuck Gomes: But wouldn't that come out of the study as (Tony) and (Steve) have described.

(Steve Del Bianco): Not exactly because they said it just takes longer. Is it two seconds longer? Is it 10 days longer? My guess is that it's very difficult to find the (fisher) guys and in both cases, it's nearly infinite time.

((Crosstalk))

(Steve Del Bianco): In both cases, I would guess whether it's proxy or not proxy, the time that it takes to find the (fisher) guy is a very long time. So saying that proxy registration is a very long time doesn't help us much.

Chuck Gomes: So we can fix that with wording though...

(Steve Metalitz): Then question whether it's a longer time. It doesn't tell you whether it's...

((Crosstalk))

Chuck Gomes: Unreasonably complicate.

(Steve Del Bianco): All you got to do is find the time it takes to find these (fishers) in both cases and compare them and see is one five days longer, five minutes longer, you know, are both of them two years? Will five minutes longer or five days longer, does it matter? That's my question.

Chuck Gomes: Okay, so let's take one of these at a time. Let's start with what (Tony) had there that covers one aspect of what the anti-fishing group working group submitted and let's see if we can get comfortable with the wording on that.

So, Steve, you had suggested simplifying it to proxy and concealed who is records complicate investigation and notice and takedown. I think you changed it a little bit.

Liz Gasster: But I said, let's see if this captures it, proxy and concealed who is records complicate the investigation and disabling of fishing sites.

Chuck Gomes: And what if we were to put the cover, (Paul)'s concern, unreasonably complicate.

(Steve Del Bianco): Or significantly.

Chuck Gomes: Significantly. Whatever, something to show that it's -

(Steve Metalitz): It's not just a two second difference.

Chuck Gomes: Yeah, right. So what would that say, Liz?

Liz Gasster: It would say proxy and concealed who is records significantly complicates the investigation and disabling of fishing sites.

Chuck Gomes: Any problems with that? That's one hypothesis. This is one where I think we're going to have two or three.

(Paul): Unfortunately, it doesn't compare it to non-proxy registrations.

Chuck Gomes: Well, don't you have to do that to...

(Steve Metalitz): I don't know what else it could contain but you could throw in there compared to instances that don't have concealed or proxy...

(Paul): I'm good with that. So therefore we would look into fishing instances that don't proxy, find out how complicated that is and compare it to this.

Chuck Gomes: Yeah, I think to test the hypothesis you have to do that but that's again - that's kind of a step down the road. You can't really test whether or not there's going to be a significant complication of those of the proxy and concealed who is records if you don't compare it to those who aren't.

Liz Gasster: So what I wrote, see if this works, sort of the belt and suspdeners is the proxy and concealed who is records significantly complicate the

investigation in disabling fishing sites as compared with non-proxy registrations.

Chuck Gomes: Does that cover it? (Paul)?

(Paul): That does for me.

Chuck Gomes: Okay. Anybody else have any suggestions on that one?

Okay, so now, what's our second hypothesis then because they really do have several things built into this.

(Steve Metalitz): Well, going back to what they submitted. It said we would like to see a study on the use of proxy or private registrations whether or not the occurrence of these types of registrations is increasing and how much the domains registered using proxy or private registrations are used for fishing.

So I think that last one is really what else...

(Paul): I agree with both of those. I agree with both of these. Let's find the study, see it. (Unintelligible) number of proxy registrations increasing by what rate. That's good information.

Chuck Gomes: So that's a separate hypothesis right there.

(Steve Del Bianco): Kind of a separate hypothesis.

(Paul): Right and then number two would be how many of these proxy registrations are used in fishing. Out of all the proxy registrations, we

know the number. We know how fast it's increasing. Out of all those, how many of those are using fishing?

Liz Gasster: So if we started with the number of proxy registrations is significantly increasing herein...

Chuck Gomes: I think that's one of their hypotheses, right?

Liz Gasster: Right.

(Steve Metalitz): Yeah.

Chuck Gomes: And then a third one. We need a third one dealing with the fishing issue. Now (Paul) the way you worded it wasn't really stated as a hypothesis but I understand where you're going. So let's see if we can word it like a hypothesis.

(Paul): Wait, hang on one second. Back to the first one. It's kind of a little bit. We need to compare it to the total number of registrations because the total number of registrations is increasing. So we should say...

(Steve Del Bianco): The proportionate registrants.

(Paul): ...yeah, the number of proxy registrations is increasing faster than the total number of registrations is increasing. Something like that so that we don't give a misleading. Another misleading...

Liz Gasster: So, (Paul), how about this? The number of proxy registrations is significantly increasing as compared with the total number of registration.

(Paul): Successfully.

Liz Gasster: Or when compared with?

(Paul): Yeah.

Chuck Gomes: Yeah, there are different ways to do it but I think that captured it. Anybody disagree? I think that captures that particular point. So that gives us two hypotheses so far including what, how we modified (Tony's).

And now, we need the third one with regard to fishing. Suggestions on that?

(Steve Del Bianco): Well, I think one way you could do it and I'm sure (Paul) will want to impact this is to say that domains registered using proxy or private services are disproportionately associated with fishing. That's the hypothesis.

Chuck Gomes: How do you feel about that, anybody?

(Paul): My hypothesis would be a very small number of domains that have proxy registrations are used in fishing.

(Steve Del Bianco): That's not the same point. The point is...

Chuck Gomes: I agree.

(Steve Del Bianco): ...compare, to compare what percentage of proxy registered domains is involved and then you compare that with what percentage of non-proxy registered domains is involved. And you find the first number is higher than the second then you can say that proxy registrations are disproportionately associated with fishing activity. If you don't find then your hypothesis is wrong.

(Paul): I agree with that. I would say - I would make two statements then. A very small number of domains that are on proxy registration - I wouldn't say an exact number.

Two percent with the means on proxy registration are fished. Two percent of and then I would compare that to non-proxy. Two percent of the non-proxy domains are fished.

(Steve Del Bianco): In that case you would they're not disproportionately associated then hypothesis is false but if it turns...

(Paul): Correct.

(Steve Del Bianco): it's two percent of the proxy and 0.2 percent of the non-proxy then you would say that the hypothesis is proven.

(Paul): I agree with that.

Liz Gasster: So this is (Liz) . What I had and it may need to inverted based on what you just said is domain names are registered using proxy or privacy services are disproportionately associated with fishing.

(Steve Del Bianco): That's what I would suggest.

Chuck Gomes: And (Paul), why - I'm still not following you why that's not a well-stated hypothesis that could be tested? Seems like that accomplishes what you're getting at as well.

Liz Gasster: Do you want me to say it again, (Paul)?

(Paul): Yes, I do.

Liz Gasster: Domain names registered using proxy or privacy services are disproportionately associated with fishing.

Chuck Gomes: That okay?

(Paul): I'm thinking.

Chuck Gomes: Okay, I'm glad.

(Paul): Disproportionately, I would say are twice as much or whatever assigns this proportionately and I would add as compared to those that do not have proxy registration.

Chuck Gomes: The problem with getting specific with regard to numbers like ordinal numbers, twice as much or two percent or anything like that. I think you overly restrict the study...

(Paul): I'm totally good with that but then we need to know the exact proportion on both sides. Then let that...

((Crosstalk))

Liz Gasster: I did add that clause now like we did in the others so let me read it again. Domain names registered using proxy or privacy services are disproportionately associated with fishing as compared with non-proxy registration.

Chuck Gomes: Does that work?

(Paul): If you're saying that to me, I would put both sides on it. How many on the proxy registration are associated with fishing and how many on the non-proxy registration side are associated with fishing as both compared to the total number on that side.

Chuck Gomes: But you're designing the study not stating a hypothesis and that's not our task. I agree with you that's the way to do that but it's not our job to design the study and that's why I'm bothered by getting too specific like saying two percent or with saying twice as much or something like that.

What we want them to do if we decide to do this study is to go out and find out whether, what the comparison is and see whether that's significant. Whether it's disproportionate or whatever but it's not our job to design the study.

Anybody else opposed to the wording that(Liz) had? And (Liz) why don't you read it one more time?

Liz Gasster: Sure, domain names registered using proxy or privacy services are disproportionately associated with fishing as compared with non-proxy registration.

Chuck Gomes: Any other tweaks to that? Okay. You're concern's noted, (Paul).

Let's then look at the GAK 11 which if we go back to the GAK statement itself.

(Steve Metalitz): I think that about covers GAK 11.

Chuck Gomes: Yeah I think you're right but let me just go back just so that everybody - in case they're not looking at. GAK 11 was what is the percentage of domain names registered using proxy or privacy services that have been associated with fraud or other illegal activity versus a percentage of domain names not using such services that have been associated with fraud or illegal activity?

I think you're exactly right. Does anybody disagree with that? That one's really covered.

(Paul): Not really because it just talks about fishing. There's all the kind of fraud and illegal activity.

Chuck Gomes: Oh, got you.

((Crosstalk))

(Paul): (Unintelligible) illegal. For example, we don't talk about spamming at all. I would change the hypothesis. I didn't know that's what they were going after. Instead of saying fishing just say fraud and illegal activity.

Chuck Gomes: Anybody have a problem with that?

(Steve Metalitz): Well, you know, it's going to make it harder to design the study because you first have to...

(Paul): I hear what you're saying but you just got through saying that. We're not doing the design we're doing the hypothesis.

(Steve Del Bianco): Well, maybe there's two separate hypotheses. One is the one based on 13 that we've approved and the other is the one based on GAK 11 which we substitute fraud or other illegal activity for fishing.

Chuck Gomes: So have two separate hypothesis. One that is more general, fraud and illegal activity and one that specifically says fishing. Is that what you're saying?

(Steve Metalitz): I agree with (Paul) that's the difference between them.

Chuck Gomes: So we'd have a fourth hypothesis that addresses GAK 11...

(Paul): That's exactly like the previous one except it says...

Chuck Gomes: You got it Liz?

Liz Gasster: So it would say domain name was registered using proxy or private services are disproportionately associated with cybercrime as compared with...

(Steve Del Bianco): (Unintelligible) illegal activity is what the GAK said.

Liz Gasster: It said, sorry, what?

(Steve Del Bianco): Fraud or other illegal activity.

Liz Gasster: Thank you.

Chuck Gomes: Okay. Any comments on that? Then (Liz) for these two would you read back the four hypotheses that we have please.

Liz Gasster: Yeah, just give me one sec.

Chuck Gomes: Sure, we'll always give you the one sec.

Liz Gasster: Okay sorry. A, so we have four, 13A; the number of proxy registrations is significantly increasing when compared with the total number of registrations. B: proxy and concealed who is records significantly complicate the investigation and disabling of fishing cites as compared with non-proxy registration. C: domain names registered using proxy or privacy services are disproportionately associated with fraud and other illegal activities as compared with non-proxy registration. And GAK 11 or D would be domain names registered using proxy or privacy services are disproportionately associated with fishing (unintelligible) sorry.

Chuck Gomes: Read that last one.

Liz Gasster: So C is going to be domain names registered using proxy or privacy services are disproportionately associated with fishing as compared with non-proxy registration and then GAK 11 is domain names registered using proxy or privacy services are disproportionately associated with fraud and other illegal activities as compared with non-proxy registration.

(Paul): Excuse me, can you read the second one again?

Liz Gasster: Yeah, hang on one sec. Let me fix what I did. Okay. The second is proxy and concealed who is records significantly complicate the investigation and disabling of fishing sites as compared with non-proxy registration.

Chuck Gomes: (Unintelligible) any further comments or discussion?

(Paul): I need to look at them and unfortunately I'm not at my computer.

Chuck Gomes: And what are practice is each time is that after the meeting,(Liz) will prepare a write-up, a red line write up and then also post them on the - the final ones on the Wiki and then everyone's encouraged to discuss on the list and submit any comments, suggested edits and so forth and then we'll take a brief amount of time in our meeting next week to as one final shot, just like we did today. So that we can make any final edits at that time. Is that okay?

(Paul): Makes sense to me. Does this meeting start at 8 or 7 Pacific Time? In others words, was I an hour late?

Chuck Gomes: No, you were on time. You were right on time. It starts at 11 am EST so for you and I it starts at 8.

(Paul): Thank you.

Chuck Gomes: Then going to GAK 2 and if we go back to GAK 2 it said what is the economic impact restrictions on some or all of the legitimate uses of

who is. Sounds awfully familiar to things we've already talked about. What (Tony) suggested there and the GAK didn't state a hypothesis as everyone knows. Restrictions on some or all of the legitimate uses of who is have an economic impact and let me remind everybody of the staff note that (Liz) put in there when she wrote up the original report on the proposed study.

She said this is relevant to the previously list of study submissions because access to who is data is one of the legitimate uses we would like to protect but there may be other legitimate uses not mentioned by previous proposals. Comments or discussions on this?

(Paul): Tough one.

Chuck Gomes: Yeah it is.

(Paul): You could talk for like two days on this one.

Chuck Gomes: Yeah. We'll have to talk about what Tony suggested first of all. Restrictions on some or all of the legitimate uses of who is have an economic impact.

(Steve Metalitz): This is Steve. I think that is responsive to what the GAK said. I think, obviously there's problems with it but I think it accurately translates what they said into hypothesis speak.

Chuck Gomes: And that's what our task is so...

(Paul): It's tricky because you have to talk about what's the who is. Is it the who is - is information behind proxy or is it what's shown in the who is

output. So none of what's shown in the who is output, as far as I know, is restrictive. It's always been accessible to the (unintelligible), still is. You have to get to what's the who is information. What's shown in the who is output or something other than that.

Chuck Gomes: I follow you there, (Paul), but I think the GAK is probably looking to the future. If we were to restrict what's displayed in who is; in other words the who is requirements that ICANN imposes, it might have an economic impact.

(Paul): It's too hard - yeah, I hear what you're saying, though. We can't test what hasn't happened. We can't test the future. So...

(Steve Metalitz): Well, I mean I assume that if you were...

(Paul): Therefore, I assume they're talking about the past which means proxy in my mind but I could be wrong about that.

Chuck Gomes: Yeah, I don't know whether they're talking about proxy or not here but we've covered some of what they're getting at. It's been covered in some other areas. Like, for example, (Milton's) thing on CCTLDs was along the same line. If they're more restrictive and so forth.

Now what we conclude from, obviously, is questionable but I think it's the thinking similar. Recommendations on how to handle this one, not real clear.

Should we go with what (Tony) has and then it needs to be decided whether or not - I mean, it's a tough one to actually do a study, I think, if we were going down that path but if in fact, what (Tony's) written

captures what we think they're getting at maybe that's what we should go with.

(Paul): What did (Tony) write?

Chuck Gomes: Restrictions on some or all of the legitimate uses of who is have an economic impact. Does that capture what the (gak's) getting at?

(Paul): I've got to see them both in front of me; otherwise I'm just going to ask you to keep repeating them.

Chuck Gomes: Okay.

(Paul): And unfortunately I have to leave the call so can I look at this online and reply on the list?

Chuck Gomes: Absolutely.

Liz Gasster: Does it make clearer or just in general as hypothesis to say have a negative economic impact?

Chuck Gomes: Now that's probably a good idea. Yeah, (Paul), I already told you the procedure we're going to follow. So if...

((Crosstalk))

(Paul): Yeah it all depends on what the restriction is and so on.

Chuck Gomes: So you're suggesting it could be a positive economic impact.

(Paul): Who knows?

Chuck Gomes: Yeah, okay. Okay, all right, thanks, (Paul). What do the rest of you think in terms of should we add the word negative impact or just leave it as is? No thoughts. This is a tough one I know.

Liz Gasster: I don't think it's much of a hypothesis without one. Without the qualifier.

Chuck Gomes: Everybody okay with adding negative.

(Steve Metalitz): Yeah.

Chuck Gomes: And again whether we go negative or positive or anything like that when you're testing a hypothesis you've got to look at both sides or all sides.

Okay, all right. So that one, you got that one now?

Liz Gasster: Yes I do.

Chuck Gomes: Okay, good. Let's go on to Area 6 and (Steve Del Bianco) provided some hypotheses. What I did, Steve, thanks for putting yours right in the Wiki. I went ahead and cut in the previous hypothesis so people could see that all on the same page without jumping around as much.

(Steve Del Bianco): And I had done that in the attached Word document.

Chuck Gomes: You did. That's why it made it very easy to include it here too and we hadn't followed that procedure in the past but when I was helping (Tony) with his, I said it would be really nice to have it all in one place

when we're going through this meeting. So I just went ahead and copied and pasted the previous as well. No, your document was very well done and easy to use.

(Steve Del Bianco): And before we jump into that I wanted - (Steve Metalitz) is the author of one of the submissions and I think (Steve's) on a tight clock today so he might be the one who goes first.

Chuck Gomes: You want to jump to his comment. Is that good, (Steve Metalitz)?

(Steve Metalitz): Yeah, that'd be fine and that's the one down there between 3 and 20. I don't how I got inshrined forever as the...

((Crosstalk))

Liz Gasster: You're very important, Steve.

(Steve Metalitz): Yeah, I must be.

Chuck Gomes: Steve, why don't you go ahead and talk to that one?

(Steve Metalitz): Okay but what I think (Steve) has there - actually, I think, to be honest I think he probably (unintelligible) this from what Liz did when she was because I think, at one point, she prepared a draft hypothesis and I think this just breaks it out into two separate and I agree they are separate hypothesis.

I apologize let me back up for a second. The issue here was whether if a registered used proxy service that would have a lesser ability to

contest a UDRP proceeding and that's the second hypothesis that (Steve) has listed there.

: The first hypothesis was taken from the way you submitted the study because you described in there that the way you would conduct it was to ask UDRP providers like (unintelligible) and (NAF) to identify cases that involved proxy and private registration and to indicate whether the registrar performed. Whether they actually revealed the identity information for the registrant as part of the UDRP case.

(Steve Del Bianco): And that would be one way that you would have registrant would not even know that the UDRP was going on.

(Steve Metalitz): So I guess you've broken this down into two steps but I think it accurately captures the comment, the suggestion.

(Steve Del Bianco): And I don't want to be to duplicative of Study Area 3, the one I had submitted and I'm not familiar with UDRP proceedings but in a UDRP...

(Steve Metalitz): I think they're separate.

(Steve Del Bianco): Yeah, different authorities that is making the request of the registrar to reveal the proxy data right? It's not the same thing as an IP holder independently providing evidence of actual (unintelligible)...

(Steve Metalitz): That's correct. It just doesn't turn on evidence of actionable harm here. Really just says that UDRP case has been brought.

(Steve Del Bianco): So then I think...

(Steve Metalitz): Not on the merits of it.

(Steve Del Bianco): ...we've got to keep number one because it's completely distinct from whether or not they're honoring their RAA on evidence of actionable harm as in the Area 6 number 3.

(Steve Metalitz): This is the - one of the top (unintelligible) I know the compliance activities are looking at right now.

Chuck Gomes: Now we may have to tweak number 1 just a little bit and let me tell where I'm coming from there and those of you who that have been involved in many of the who is working groups will probably get better - be better qualified to do it because when we say actual registrant, what do we mean by that.

I think I know exactly what we mean by it but I think we have to express it here because officially, in some proxy services the proxy provider is the actual registrant.

Liz Gasster: So you want to take...

Chuck Gomes: I don't think that's what we mean.

Liz Gasster: Like accurate? Is that the point?

(Steve Metalitz): No, no, no. The licensee, according to 3.77.3 in the RAA, I'm talking about the licensee.

Chuck Gomes: So should we say that here?

(Steve Metalitz): Well, the problem is that some proxy services operate that way and some proxy services operate another way.

Chuck Gomes: I understand.

(Steve Metalitz): So you're right, actual registrant is kind of shorthand. It's really the party who...

(Steve Del Bianco): Party who pays the bill right?

(Steve Metalitz): Party who's interest is at stake in the UDRP proceeding. Party who's at risk of losing their domain name.

Chuck Gomes: Would it work just to put actual registrant in some quotes just to...

(Steve Metalitz): That's okay with me.

(Steve Del Bianco): Is true registrant a better expression?

Chuck Gomes: Well, the problem with the term registrant. I think that's the problem is that registrant has a very specific meaning from a registry point of view and I know that's not what we mean in some cases depending on the proxy or privacy services is operated.

Liz Gasster: Is it user?

Chuck Gomes: The user of the domain name is what we're really talking about, right? I'm not sure that that term works but...

Liz Gasster: I don't know.

((Crosstalk))

(Steve Del Bianco): In the RAA 377.3 the expression registered name holder is used...

Man: Is that the proxy (Steve) or...

Chuck Gomes: That's the registrant. I'm not an attorney. That's the registrant.

(Steve Metalitz): We need to put actual registrant in quotes or you could say not revealing contact data of the actual user of the domain name or something.

Chuck Gomes: I kind of like that one. I think it's (unintelligible) but I can live with the quotes. What do others think?

Liz Gasster: I've got them both now. The actual "registrant" or user of the domain name.

(James Padell): Chuck this is James.

Chuck Gomes: So you're suggesting an or there, (Liz) ?

Liz Gasster: Yes.

Chuck Gomes: Or you had them as two separate things? Go ahead James.

(James Padell): Just a suggestion that the subscriber or customer of the proxy service in lieu of any mention of actual registrant. In some cases, the UDRP or

the proxy service is the actual registrant, is a legal registrant (unintelligible).

Chuck Gomes: What do you think about that? That's not bad. So you're saying the subscriber of the proxy service or the - say that again please, James?

(James Padell): Okay the actual registrant or subscriber of the proxy service.

Chuck Gomes: Does that work? Comments.

(Steve Del Bianco): Maybe we should say proxy/private service. Probably say some registers operating proxy/private service registrations services and so you could say the customer of the proxy/private registration service.

Chuck Gomes: That works, doesn't it James?

(James Padell): Yeah.

Chuck Gomes: Let's see what(Liz) has now. Giving her a chance to get it down.

Liz Gasster: Yeah, so what I've got is some registrars operating proxy services are not revealing the "actual registrant" or subscriber of the proxy/privacy service when requested in the UDRP proceeding.

(Steve Del Bianco): Well, I think we want to change proxy in the first use to proxy/private services. So some registrars operating proxy/private registration services are not revealing data on the customer of the proxy/private registration service when requested in a UDRP proceeding.

Chuck Gomes: So we have proxy/privacy twice which is good. It's precise. Okay?

Liz Gasster: Yes I got it.

(Steve Del Bianco): Make sure that actual registrant phrase which I agree is - I think we all understand what that means may be mis...

Chuck Gomes: It does pay off sometimes to be pretty precise in some of these things down the road when other people are looking at it. Okay, on number 1.

Okay, let's go to number 2. A registrant's use of a proxy/private, we did it there, registration service reduces the registrant's ability to contest the UDRP proceeding. Any comments on that?

(Steve Metalitz): I think that's fine as long as we don't get into a quibble about whether that person is "registrant."

Chuck Gomes: Oh yeah.

(James Padell): Let's use the same phrase.

(Steve Del Bianco): Parties of a use of proxy private registration service reduces the party's ability to contest UDRP proceeding.

Chuck Gomes: That's pretty good, in my opinion. Again avoiding the word registrant, I think, is helpful. Even though all of us on this call understand what we mean. That okay?

Liz Gasster: The party's use of a proxy/privacy registration service reduces the party's ability to contest the URDP proceeding.

(Steve Metalitz): Sounds good.

Chuck Gomes: Any further discussion on that?

(Steve Del Bianco): Is domain owner a more precise word than party?

Man: That's not a very good term. First the owner, I won't even go down that path. We can get into a whole new debate on that one that we won't do here.

((Crosstalk))

(Steve Metalitz): Is your theory on hypothesis, number 2 here, is your theory here that the use of a proxy means that the party might not even know there's a UDRP proceeding?

(Steve Del Bianco): That's correct.

(Steve Metalitz) Registrar fails to relay or reveal like they're supposed to.

(Steve Del Bianco): Either they wouldn't know it all or they might find out too late or something. So, that's the concern.

(Steve Metalitz): And then something happens which you called a default proceeding or something? That's how the domain owner loses their ability to really answer the claim. Okay.

(James Padell): Chuck, this is James.

Chuck Gomes: Go ahead James.

(Steve Metalitz): ...might be less than limiting.

(James Padell): To contest a UDRP proceeding would a more descriptive word there be to respond to an UDRP proceeding.

Chuck Gomes: You okay with that, Steve?

(Steve Del Bianco): That's okay.

(James Padell): Because we're talking about not initiating UDRP, right?

Chuck Gomes: That's right. That's a good suggestion. Okay, anything else on number 2? Okay, (Liz) , what do we have?

Liz Gasster: You have a registrant's - I'm sorry - a party's use of a proxy/privacy registration service reduces the party's ability to respond to a UDRP proceeding.

Chuck Gomes: Anything further on that? Okay, good work. All right let's go back to number 3, Study number 3. And (Steve Del Bianco) you want to talk about that.

(Steve Del Bianco): Sure, I had submitted this one and I suggested an hypothesis of a failed to reveal that shielded registrant data in accordance with the RAA and potentially in accordance with their own terms of service. Although that's of less importance, I had suggested in the study that we get the data two ways. First by obtaining imperical data that was already collected by the requesting parties and consumer protection

agency. The theory of this was that our consultants would ask consumer protection agencies and those who make requests under the RAA, how many times in the last x months you've made requests. What was the nature of the response that you received but frankly, I don't have a lot of confidence that that will be easy to gather or statistical robust.

So, I went on to suggest that more likely we would need to conduct a test. The consultant would need to conduct tests by submitting, electronic properly constructed inquiries and then measuring the time to relay or reveal true registrant information to the requestor. That would be an audit, if you will, but it's nothing the like the audits that (Doug), (Brent), and (Denise) had been planning. I've discussed them with before and they were intrigued of the idea but it isn't even in their work plan for the current RAA compliance audit.

So keeping in mind that where we're headed with this, in the study submission we did need to describe the kind of data gathered and the method, that's where I'm heading with it and it would be great for that to make its way into whatever we prepare. In other word, the hypothesis alone doesn't sort of indicate the kind of the testing we believe will be necessary.

So the proposed hypothesis that I have is that some registrars are not revealing registrant data that is shielded by proxy services when presented with requests to provide reasonable evidence of actionable harm as required under RAA 337.3.

Chuck Gomes: Now before we discuss it. I suspect that we want to probably treat the word registrant similarly to what we did on the one we just discussed. Is that true?

(Steve Metalitz): It might be. I mean that's a broad implication because this is just Area 6. We have used the word registrant, I believe, in other areas too.

Chuck Gomes: Yeah, we may have to go back in other areas and look at that but again, understanding that the registrant sometimes is the proxy provider or privacy service provider rather than the actual licensee or the one who's subscribing to the proxy service. I suspect that it would be good to handle it the same way we did on the other one. Is that correct?

(Steve Metalitz): How would that sound then? Would we substitute the word party for registrant?

Chuck Gomes: No I don't mean the party one. I think the other one where we talked about the, how did we do number 1 in (unintelligible) comment? Liz will you read number 1.

Liz Gasster: Yeah some registrars operating proxy...

Chuck Gomes: No, oh okay. Go ahead. My mind...

Liz Gasster: proxy services are not revealing data about the actual registrant or subscriber of the proxy/privacy service.

Chuck Gomes: Would that same phrase work there Steve?

(Steve Del Bianco): Well, there's two nouns here. There's the registrars that operate stuff and the registrar...

Chuck Gomes: That's fine.

(Steve Del Bianco): Which, of the two, do you want to change, here?

Chuck Gomes: It's the registrant. The term registrant that I'm concerned with.

(Steve Del Bianco): Liz could you read it one more time with the substitution?

Liz Gasster: Let me see if it works, hang on. Some registrars are not revealing the actual registrant or subscriber of the proxy/privacy service that is shielded by proxy services when presented with a request that provide - to be provides I guess.

(Steve Del Bianco): I guess that's okay.

Chuck Gomes: We don't have to do that. I just think it's the same situation arises here.

(Steve Del Bianco): I agree. The word registrant could be ambiguous.

(Steve Metalitz): The other way we might think about, I'm sorry this is (Steve) can I get in the queue?

Chuck Gomes: Go ahead jump in that's fine.

(Steve Metalitz): The other way you might think about handling this is just kind of a footnote to our entire document. If you use the word registrant or actual registrant here, we might just drop a foot note saying in the situation of

a proxy or private registration we're using this term to mean customer of the service.

Chuck Gomes: And that's probably a lot simpler and cleaner way to do this because the wording gets a little bit lengthy there if every time we use the word registrant we do that. Anybody opposed to that approach?

So this might be something either at the end of the table or the beginning of the table? Because it would not just be for this area; it would be across the whole list of studies.

Liz Gasster: But we would use this definition of actual registrant or subscriber of the proxy/privacy service rather than saying what you just said (Steve) the customer of the service, right?

(Steve Metalitz): Well, I think we had said customer of the proxy/private registration service but I'm not wedded to customer versus subscriber.

Liz Gasster: Actually, I think it's a little clearer to say customer but...

(Steve Metalitz): Then let's go with that but this way it's just kind of dropping a foot note or putting it as a head note or something that says when we're talking about, in that context, we're using registrant to mean that.

Liz Gasster: I'll make a note to do that.

Chuck Gomes: And any objections to the handling of it that way? A good suggestion. Okay, so what - so read one more time what we have on Study 3 please.

Liz Gasster: Yeah some registrars are not revealing data on the...

Chuck Gomes: You can just leave it as registrant data and that's going to be defined...

Liz Gasster: Okay registrant data that is shielded by proxy services when presented with a request that provide reasonable evidence of actionable harm as required under RAA 377.3.

Chuck Gomes: Now is it helpful throughout whenever we use the term registrant to just put it in single quotes just to kind of flag it as referring back to that or does it matter. I'm flex - I don't have strong feelings. I just - some people don't see little footnotes or something like that and so. No comments. Okay that's fine then I guess.

Any more discussion on Study 3?

(Steve Del Bianco): I - this is (Steve Del Bianco) - just wanted to lodge the request that we find a way in our final report to include some of the study suggestion that accompanied our submission. In other words, the nature of an audit test so that we don't just sort of throw this out there without any consideration of the work that went into it.

Chuck Gomes: Well, I've been assuming all along and this may be a bad assumption that in terms of - anything that the council decides to ask staff to do further work on and getting some cost estimates and so forth that they would go back to the specific study suggestions but your points well taken. Maybe that's another kind of general statement we should make accompanying this.

(Steve Del Bianco): Right, Chuck, because there's an opportunity that if we actually clarified how it is we're recommending getting the data. That could make something seem much more reasonable and reliable or potentially too expensive and that would be revealed when we make the decision on which to ask staff to pursue.

(Steve Metalitz): Chuck, this is Steve. I'm going to have drop off here.

Chuck Gomes: Thanks a lot for all your help Steve. (Steve Del Bianco) could you just submit a little sentence or so that accomplishes what you're trying to do that could accompany our report and again, it applies to every, all the studies not just one. Would that be doable?

(Steve Del Bianco): Yes and then I'll include by example what I mean on study submission number 3.

Chuck Gomes: That'd be fine. That'd be great.

(Steve Del Bianco): Okay because it's a lot of work to go through the end of this submission and try to figure out whether there's nuggets of wisdom in there that could inform the decision.

Chuck Gomes: Okay.

(Steve Del Bianco): Liz knows that, right (Liz) ?

Liz Gasster: Yeah, I was just thinking that, (Steve) and I do understand the value of it because there's some very thoughtful rationale for the approach on a number of these studies that, otherwise, the council will potentially neglect.

(Steve Del Bianco): Yeah, the way you worded it the key rationale was how would the results of such a study form ICANN policymaking. I mean, that is, after all the key now question and most of us actually tried to answer that carefully in our submission and that isn't being discussed at all.

Chuck Gomes: Okay, if there's nothing else on that. Let's jump ahead to number 20 and that was proposed by (Claudio) from (Inta). Steve, do you want to talk about that one?

(Steve Del Bianco): If I had to summarize (Claudio's) submission it was this, proxy services are not timely or reliable as conduits of communication to registrants. He went on to suggest he thinks proxy services could be in breach of RAA 377.3 which is somewhat like the point I made but the way he was getting at is that untimely and unreliable conduits of communication. And by that, I'm thinking of the relay function more than the reveal function if you understand my point.

The relay being the proxy relaying information to the party who's truly the owner of the domain. The previous hypothesis that (Liz) had put down was that law enforcement agencies' ability to fight crime is significantly hampered when privacy services are used and while I think that that's (Claudio) is suggesting.

I really believe when you read his submission he suggests two hypothesis. Number 1 that some proxy services do not reliable relay information requests to and from the actual registrant. And the second he suggests that some proxy services are failing to adhere to our RAA 377.3 and that is probably duplicative of what I put in on study position number 3.

Chuck Gomes: Should they be combined?

(Steve Del Bianco): His number 2 with my number 3?

Chuck Gomes: Yeah.

(Steve Del Bianco): Probably.

Chuck Gomes: That probably makes it easier for the council to deal with this. Now for, maybe we just on number 2 for 20 we just refer to Study 3.

(Steve Del Bianco): I definitely would agree with that. Point to the duplication so we'll capture the fact that it was part of (Claudio's) two part hypothesis but refer to study submission number 3 for consolidate. Consolidate with study submission number 3 but the first one would stand alone.

Chuck Gomes: Yeah.

(Steve Del Bianco): Which is try to test whether they're reliably relaying information. Now, (Steve Metalitz) brought up this relay and part of a UDRP proceeding. This is broader than that. I don't think (Claudio's) just saying in a UDRP are they relaying so that the party can contest a UDRP (unintelligible). Are they relaying? And it's a two-way relay. Both relaying to the domain owner and back to the requestor.

Chuck Gomes: So what do we have then - so we would leave - any modifications to what's (Steve's) proposed here in addition to the one, the reference back to Study 3 on number 2? Everybody's okay with that.

So, (Liz) , what do we have here then for 20?

Liz Gasster: We have one and I think I might change these numbers to letters.

Chuck Gomes: Yeah to be consistent. That's good.

Liz Gasster: To be consistent but one, some proxy services do not reliably relay information requests to and from actual registrants and number 2 some proxy services are failing to adhere to the RAA consolidated with study suggestion number 3.

Chuck Gomes: Okay. Any additional comments on that? All right as our last item, let's go to Study 12.

Jim: Chuck, this is Jim. I'm sorry I was a little slow on the mute button here.

Chuck Gomes: Okay, go ahead Jim.

Jim: Just consideration, I'd ask (Steve) if he would be okay with including promptly and reliably relay information

(Steve Del Bianco): Absolutely. Untimely, (Claudio) used the word untimely in his and that's a great catch. Thank you.

Chuck Gomes: Good, thanks Jim. You got that, Liz?

Liz Gasster: Yes, I do.

Chuck Gomes: Good, okay. Anybody else on 20? On 12 then Steve, go ahead.

(Steve Del Bianco): Thank you. Twelve was submitted by (Woot Denatry). I probably butchered that pronunciation. I'm sorry. He's with the telecom authority in The Netherlands and if I have to summarize his submission it'd look like this. He'd like some assessment and comparison of the needs for who is from both the law enforcement and the privacy perspective. So it was a thoughtful but very general question and really didn't contain a hypothesis.

So I have taken a stab at one tries to get this balance that he's after because he did put some thoughtful statement in there about balance. Here's one way to restate a hypothesis. Registrations can become more accurate if sensitive information of private persons can be secured while giving law enforcement proportional access.

Let me read that one more time. Registrations can become more accurate if sensitive information of private persons can be secured while giving law enforcement proportional access. His implication is that people would not put in Mickey Mouse if they knew that, as a natural person, that only law enforcement had proportionately access and they wouldn't mind putting accurate information in. I think it's basically an argument for changing who is so that only certain parties can get it and that that would improve accuracy.

Chuck Gomes: Steve, I just have one question for you. What do you mean by proportional access?

(Steve Del Bianco): That is a phrase that (Woot) used in his submission and let me see if I can, yeah that's his word. Proportional access and I believe here what he's saying that it's proportional, in the sense, that law enforcement has a need to get it. So they have a proportionate need to

get the data whereas other and general public might not. Therefore, there's this balancing or this scale that access is only given to those who proportionate need balances the privacy needs of the individual.

Chuck Gomes: I really have trouble with the use of term proportionate or proportional. Maybe that's my mathematical background which can be a problem sometimes.

(Steve Del Bianco): It's a word he used but I think we could take some. We could take some liberty here and just strike proportional and I think the draft...

Chuck Gomes: That's what I was thinking. Just say law enforcement access.

(Steve Del Bianco): That's correct.

Chuck Gomes: Anybody have a problem with that? How about on this particular hypothesis as presented deleting the word proportional? Any more comments on that?

(Steve Metalitz): This is Steve. I would change what I put for registrant, registration can become more accurate. I'd probably say would. If we're asking for somebody to test it, we're going to test the assertion that they would become more accurate.

Chuck Gomes: I can hear (unintelligible) commenting on that right now, future.

Man: And I hope that the submitter, Mr. (unintelligible) would weigh in to.

Chuck Gomes: So (Liz) what do you have on that one?

Liz Gasster: Registrations would become more accurate if the sensitive information of private persons can be secured while giving law enforcement access.

(Steve Del Bianco): He expressly does not include IP owners and he expressly only speaks to private persons. So I wanted to make sure to capture those two concepts.

Chuck Gomes: All right. Very good, anything else on that?

(Steve Del Bianco): I had one other thing on Area 6.

Chuck Gomes: Go ahead.

(Steve Del Bianco): I included the footnote which (unintelligible) RAA 377.3 and would encourage that to be included in our - the bottom of our table on the Wiki or someplace else because since we refer to it several times it ought to be easy for the reader to find.

Chuck Gomes: Get that(Liz)?

Liz Gasster: Yes.

(Steve Del Bianco): And I pasted the link to it in the bottom of my Word doc.

Liz Gasster: Thanks, Steve.

Chuck Gomes: Very good. All right, well we made it through two more areas which leaves just two to go and (James) already submitted some proposed hypotheses and he also, in his document, included the provided

hypotheses which are pasted into the table. Sorry about that I have a second line that if I mute myself I cut off.

So I think we're done for today. Our meeting will be same time next week and I would hope that we can finish Areas 7 and 8 next week. Eight being a little bit tough because it's the GAK hypotheses and hopefully by the end of the meeting next week be ready to send out what we've done to the proposers and give them about a week to respond maybe before our meeting after that so that we can see if make any adjustments. Does that make sense?

Okay, good work guys. We'll - remember to respond during the week on the list if you have thoughts and I don't think we have special action items other than I will do a quick meeting recap for those that are not on the call especially or those that had to leave early and I will - (Liz) will prepare the red line and then also enter what we decided today in the Wiki.

Any questions or comments?

Steve Del Bianco Yeah, only one. I think you indicate that (James) has volunteered graciously to do Area 7.

Chuck Gomes: He already did.

(Steve Del Bianco): Great, that's right. That's right.

Chuck Gomes: And Eric Brunner-Williams submitted some proposed hypotheses for the four GAK studies that we haven't study. Some of them actually may have been covered like one but we'll do with that.

So I just pasted here Eric Brunner-Williams who has a conflict with a core meeting every time we meet. So what I did is I just posted his proposed hypotheses GAK 1, 5, 6 and 3 in Area 8 and so we'll just use that as a starting off point in that area next week if that's okay.

(Steve Del Bianco): Fantastic.

Chuck Gomes: Okay. All right. Feel free to take a look at those both what (James) submitted and Eric Brunner-Williams will probably facilitate what we're doing next week.

Liz Gasster: And they'll be in my Word document also.

Chuck Gomes: Excellent. Thank you very much everyone. Talk to you next week and on the list. Meeting adjourned.

(Steve Del Bianco): Thanks, Chuck.

Liz Gasster: Bye.

END