## ICANN Transcription
## Transfer Policy Review PDP WG
## Tuesday, 09 November 2021 at 16:00 UTC

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JULIE BISLAND:　　　　　Good morning, good afternoon, good evening. Welcome to the transfer policy review PDP working group call taking place on Tuesday the 9th of November 2021. In the interest of time, there'll be no roll call. Attendance will be taken by the Zoom room.

For today's call, we have apologies from Sarah Wyld from the RrSG and Crystal Ondo, RrSG. They have formally assigned Essie Musailov and Jothan Frakes as their alternate for this call and for remaining days of absence. Also, we have John Woodworth, ISPCP joining late today.

As a reminder, an alternate assignment must be formalized by way of a Google assignment form. The link is available in all meeting invite e-mails. All members and alternates will be promoted to panelists. Observers will remain as an attendee and will have access to view chat only.

As a reminder, when using the chat feature, please select everyone in order for all participants to see your chat and so it's captured in the recording. Alternates not replacing a member today should not engage in the chat or use any of the other Zoom

room functionalities. If you're an alternate not replacing a member, please rename your line by adding three Zs before your name and add "Alternate" after your name, which moves you to the bottom of the participant list.

Statements of interest must be kept up to date. If anyone has any updates to share, personal raise your hand or speak up now.

Seeing none, if you do need assistance updating your statements of interest, please email the GNSO secretariat. Please remember to state your name before speaking for transcription. Recordings will be posted on the public Wiki space shortly after the end of the call. And as a reminder, those who take part in the ICANN multi-stakeholder process are to comply with the expected standards of behavior.

Thank you, and over to our chair, Roger Carney. Please begin.

ROGER CARNEY:       Thanks, Julie. Welcome everyone. Seems like it's been a while. We missed one week and it seems like it's been longer than that. Hopefully everybody's recovered from ICANN. Travel wasn't too bad for too many people, but that's still a long week for most of us. So hopefully everybody's recovered.

I'm just going to jump in and offer up some time to anyone that had some good discussions with their stakeholder groups over the past couple of weeks since ICANN if anyone has anything they want to bring forward, things they've talked about, especially concerning the locks—and we've been talking about that for a few weeks now. And really any additional security mechanisms we

OWEN SMIGELSKI:      Thanks, Roger. I did mention during ICANN 72 session that we'll be providing the Registrar Stakeholder Group with a poll to gauge their desire or thoughts on the various locks. And I was waiting to do that until we had a registrar stakeholder membership meeting, which we canceled last week, and so it'll be next week. So that's still in process, so hopefully possibly next meeting or the meeting after, I should have those results. Thanks.

ROGER CARNEY:       Great. Thanks for the update, Owen. Anyone else with anything to bring up? Okay, we'll jump into the agenda then and jump into the compliance numbers that were sent out, distributed to the group, the updated numbers for the past year and I'll just turn this over to someone in Compliance. Holida, are you going to do that? Perfect. Thank you.

HOLIDA YANIK:       Yes, Roger, I will be doing that presentation. Thanks, Roger. I'll be providing you an overview of unauthorized transfer complaints received by the ICANN Contractual Compliance from external users during the period from 29 August 2021—that's the date when the Compliance transitioned to naming services portal, NSp—up to 30 September 2021.

Since the metrics are generated in NSp on a monthly basis, this report was retrieved in October, and this is why the presented metrics are covering the period 'till 30 September 2021.

In the upper table, you can see the set of data providing the total monthly number of complaints the reporters filed by indicating the complaint category as unauthorized inter-registrar transfer and unauthorized change of registrant transfer complaint.

The complaint categories in NSp are selected by reporters when submitting complaints. This means these numbers are taking into account what complainants reported to us while filing the complaints. Main issues we are seeing reported in this complaint are usually about hijacked domain name accounts, domain name and e-mail accounts, control panels, private dispute issues with third parties. And we can also see complaints when the domain name lost due to nonrenewal but complainants are not aware about it and they file their complaints as unauthorized transfer.

The next set of data provides the closure codes with which the unauthorized transfer complaints were closed after reviewing the complaint and provide details on the nature of complaints we received. Closure code ccTLD is self-explanatory. These are cases about domain names registered in country code top-level domain names and are out of scope.

Cases closed with codes "complainant is not transfer contact," this is row 12, "transfer cannot be completed due to a court order" as seen in row 14, and "transfer has been completed" presented in row 24 are cases about inter-registrar transfer misfiled by reporters as unauthorized transfer complaints. And I guess this

usually happens because reporter believes that registrar or reseller hijacked the domain name or keep in the domain name not allowing them to transfer the domain.

Cases closed with customer service-related issues, row 13, and reseller/webhosting, row 21, are out of scope complaints because they're mostly about disputes on customer service-related issues with resellers, hosting providers or other third-party service providers with whom ICANN has no contractual relationship.

In rows 15 and 16, you can see the number of complaints that are duplicates. These are closed because this is a duplicate complaint of open and ongoing case or the case that was previously processed and closed.

Row 17 displays the metrics for complaints about hijacking. These are usually clear cut complaints about illegal activities involving hijacking of e-mails and control panels by third parties like hackers or reporter clearly indicates that they provided their credentials to someone else who then hijacked the domain name.

Complaints about disputes with third parties and not involving the contracted party are closed with resolution code "private dispute." This is provided in Row 19.

The next row shows the metrics for complaints addressed with registrars and closed with registrar demonstrated compliance, because upon investigation, Compliance does not identify any noncompliance areas.

Row 20 shows the number of complaints closed because the reporter did not respond to the request for additional information

and evidence needed to assess and validate the complaint. As you can see, a great number of complaints get closed due to reporters' nonresponse to ICANN.

Complaints where registrar remediates or corrects the identified noncompliance are closed with resolution code "registrar fixed issue." Numbers for this case are provided in row 22. Remediations performed by registrars within these cases usually include—we usually see that the corrections made to ensure registrar or its reseller complies with losing FOA requirements, sending FOA to registrant, providing AuthInfo code to the registrant and not to a different party, for instance to account holder who is not listed as a registrant, as well as remediations regarding locking the domain name upon COR, obtaining consent from prior registrant or its designated agent for CORs, and notifying the prior and new registrants about completed COR.

And there were also cases where registrars are unable to provide the requested records. In those cases, registrar is required to take measures to ensure registrar's or its reseller's compliance with data retention obligations explained in Section 3.4 of the registrar accreditation agreement.

From row 23, you can see that unauthorized transfer complaints received during December 2020 to June 2021 period were highly impacted by the complaints regarding the failing registrar that was then terminated, and these cases were closed with the resolution code "terminated registrar." Complaints indicated with unknown resolution code are the complaints that are still in process and have not been resolved and closed yet.

The longstanding open cases are usually the ones pending completion of remediations by the registrar. Some cases may require complex set of actions to be taken by them, for instance system-related corrections or remediation involving the registrar's several or all resellers, corrections of identified additional noncompliances that are not only related to transfer policy but also involve different RAA provisions or consensus policies requiring more time to remediate.

And Steinar, to respond to your e-mail with question regarding metrics showing total number of complaints per month so we can determine the percentage of unauthorized transfer complaints, on icann.org, Compliance provides monthly dashboard presenting the data on complaint volume. It is within Contractual Compliance performance measurement monthly dashboard section. I will be providing the link within the chat. You can have a look at this data if you are interested.

For instance, if you look at September 2021 data, you can see that during September, Compliance received 189 complaints out of which according to the table that I have just presented, 24 complaints have been filed as unauthorized transfer and COR complaints.

I hope you find these metrics and clarifications useful. And if you have any other questions, I will be glad to respond to them. Thank you.

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| ROGER CARNEY: | Great. Thanks, Holiday. Let's go ahead and jump in with any questions. Keiron, please go ahead. |
| KEIRON TOBIN: | Hello. Holida, thank you very much for that presentation. Just in regards to when they're being closed, obviously, I can see the breakdown here in terms of the month. Are you categorizing them [as once as you] get them and work out where they are, or are you categorizing them once you've closed them? What is the point in terms of closing, how long does that process take in order to break down? |
| HOLIDA YANIK: | Thanks, Kieron. The time required to process and close the complaint really depends on the issues that have been raised and cooperation by the registrar to provide the requested data or the time needed to remediate the data. |
| | Also, when we see for example if the registrar is assisting the reporter, we need to take additional time to follow up with the reporter and get any updates and see if they have any outstanding issue. So it is really on case by case. I hope this answers your question. |
| KEIRON TOBIN: | Yeah, I think what I'm looking for is when you receive the initial complaint, are you categorizing it instantly so that it falls into August or September, or are you kind of waiting until it's fully |

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closed and then once it's completed, you're categorizing it into the closure code description?

HOLIDA YANIK: Okay. I understand what you mean. For example, in this specific table, I presented the complaints that were received specifically in that month. For example, the complaint received in January 21 may be processed and closed in a different time period. But here, if the January 21 complaint was closed in, say, March, you won't be able to see this one being closed in March. But it will be a bit difficult for me to compile that data about the general time period needed to process the complaint.

KEIRON TOBIN: Yeah. I think I get you. Thank you for that, Holida.

ROGER CARNEY: Theo, please go ahead.

THEO GEURTS: Thanks, Roger, and thanks to staff for all the number crunching. Really helpful. A couple of observations, questions, opinions. So when I'm looking at the amount of complaints and average transfers, that seems to be a very low percentage when we talk about an unauthorized transfer. So that is looking pretty good. I suspect those numbers were pretty low to begin with. I'm glad to see it confirmed. At least that's my opinion.

When we are talking about the hijacking domain names by resellers, I think I would have [worded] that a little different. At least from what I've seen so far, there's usually a dispute between the reseller and the registrant over whatever—usually money, by the way—and when we reach those complaints from ICANN and we reach out to the reseller, they usually lack very basic understanding of the ICANN contract which we have entered into with ICANN. When we explain the rules on when you can prevent a transfer, then usually, the reseller realizes that the dispute, he can no longer pursue it because the contract with ICANN and the transfer rules usually prohibits any reason they have with the dispute with the registrants.

So I think a lot of these unauthorized transfer, I suspect most of them are being solved between the reseller and the registrar. So I don't think it's necessary to categorize them as a hijacking. I think it's a misunderstanding for the most part.

I am glad to see that the actual amount of unauthorized transfers due to a hijack by e-mail or control panel which is the real domain name theft, so to speak, is extremely low from what I can see so far. And I think that's very positive in our work, because I suspect that most of the registrars have pretty secure operations or we are being pure lucky, that can be also a contributing factor.

But regardless, it is extremely low. I'm looking at the screen here. November, one case. I think that is fantastic news. I think that has a lot to do with the GDPR that came into place and started redacting very important information where you can perform an attack on a control panel. So I think we are in a pretty good shape there.

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Lastly, I think it's very good to understand that the transfer as listed in five and transfer unauthorized the change of registrant, those are two completely different things in my mind. So a COR has nothing to do with the transfers we are talking about. Of course, a COR is something where we're going to talk later on at some point during this exercise, but the transfer of an unauthorized COR has in my opinion nothing to do with an inter-registrar transfer. Can you confirm that? Thanks.

ROGER CARNEY:     Thanks, Theo. Holida, did you want to respond to some of that?

HOLIDA YANIK:     Yes. Thanks, Theo, for your comments. To respond to your observation regarding the allegations, the information I provided that we usually see within the complaints and what the reporters are claiming, as you can see, most of the complaints I think in this case, if you scroll to the right side of the table, you can see that more than half of complaints are closed because the reporters did not respond to our requests for additional information and I guess they are able to find assistance by the registrar after we provide them necessary information and educate the reporters.

So just to repeat, this is the only allegations provided by the reporters in their complaints, but we do not request the registrar to take any actions about the allegations, we just request them to provide the information and records needed for us to assess the registrar's compliance with the relevant provisions of the policy.

| ROGER CARNEY: | Great. Thanks, Holida. I see Berry threw something in there. Just so everybody understand, this is the complaints that go to ICANN. There's a lot of transfer issues that don't make it to ICANN that are actually handled outside of that. So again, just take these numbers knowing that a lot of transfer disputes are handled outside of ICANN and ICANN isn't aware of those issues. But these are the ones that they're made aware of by complaints filed. Steve, please go ahead. |
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| STEVE CROCKER: | Thank you, Roger. I want to continue with the point you just made but also with another point here. It's great to see this detailed data, although I'm not sure what the display issue is, but I'm only seeing through February 21 and not the rest of the table. But I assume that it continues more or less the same. |
| | I have a bit of a forest versus trees problem here. I very much like all the detail and the fact that each and every one of the complaints, it looks like, is accounted for in the sense that the totals on line 26 match the totals on line 7. |
| | That said, it should be possible to boil down—not to replace what's here but to have a summary of what's here that divides things into very simple results. How many of the complaints were closed in favor of the complainant and how many were not? And if that's not accurate enough or useful enough, how many were closed so that the complainant was comfortable with the result even if it wasn't in their favor because they then acknowledged that they were in the wrong or it got taken care of in some other way? |

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And I would think that there'd be a great deal of collapse here and it'd show, I suspect, that even with these small numbers of unauthorized or complaints on unauthorized transfers, only a very small fraction of those were complaints that were authenticated or resolved in favor of the complainant and not in favor of the registrar or reseller.

So that would be one thing. Is it possible to boil this down so that there are very small number of categories that show the results as viewed by the complainants, not just as viewed by ICANN?

Then the other point which Roger emphasized and which was mentioned by Berry and so forth is that this is a perspective of the complaints seen by ICANN, not the complaints as generated by the registrants that may be resolved in other ways. So it would be very helpful to have a sense of what the larger picture looks like and a response that suggests, "Well, we can't see that because we only hear what we're told" raises a big question in my mind about whether or not we as not only the ICANN Org but the entire community are looking in the right place. It's a classic picture of looking for the keys only on the lamp post.

So those are the main points that I wanted to say.

ROGER CARNEY:    Thanks, Steve. And I'd say it's something that we've briefly talked about and is actually in our charter to take a look at, is something that I think Owen is talking about in Chat here and what Steve's saying as well. It's hard to get to those numbers. But one of the big pieces of our charter is looking at how do we improve things

moving forward. Is there a way to capture some of that information that we're missing today? And as Owen is stating, some of that is really hard to get to. But I think, again, our charter dictates us to look at, are there ways that we can improve reporting, whatever you want to call it, I'll say reporting in quotes, to drive some of those other details that we don't have available today?

So just something to think about on that. Owen, please go ahead.

OWEN SMIGELSKI: Thanks, Roger. So Holida, thank you for the information. Nice to see what NSp—the amount of data that's in there, metrics. That was not there when I was there at Compliance, so it's nice to see all this data and be able to get some more understanding about what complaints are.

Just one feedback maybe to take back is I noticed there was some confusion about when a ticket appears as being open, say, in August 2020, but then it's not closed until December 2020. It's tough to kind of align those numbers unless people are intimately familiar with how the Compliance process works, it's kind of outside of it.

So one thing that might be an interesting metric to report if possible through the system is how long a ticket is in process before it's closed so that it can kind of give us an understanding like, oh, tickets are generally open for 6 weeks or 18 weeks, whatever. that way, we can understand why there's such a disparity between open and closed per month.

Then one of the things that Steve raised about whether or not complaints are in scope or out of scope, or are they [resolved] to the registrant's satisfaction, etc., that's actually already in the Compliance monthly dashboards. Each month has a registrar closed complaints by closure code, and it tells you whether the issue was resolved, whether it's out of scope or whether it was an ICANN issue, and all complaints are categorized that way. So you can go take a look at that data that's already there.

One more, to Steve about wanting to figure out how many transfer complaints are processed by registrars. Every registrar is going to keep track of those complaints in a different way through different systems. They may go into a general queue, they may go into different queues, and trying to get a reasonable approximation that's accurate of what types of complaints are out there would be a herculean task, if possible. And again, I don't think it's something we could do across all registrars or enough registrars to get meaningful data. Thank you.

ROGER CARNEY:          Thanks, Owen. Okay. Again, yeah, I'd definitely like to thank Compliance for putting this together. Just another piece of information that's very useful, and this level of detail is amazing to have. So that's great.

Anything else from anyone on this? Or we'll wrap this part of the agenda up. Okay, great. Thanks, Holida, for bringing this forward. Again, great information to have. Take it all in context though. As everyone mentions, you have to compare the numbers to the different numbers that are out there.

So I think just getting back to something that Theo hit on, yes, it appears even if there is a set of transfers that are adjudicated elsewhere, complaints, we know from the volume of transfers, yes, that's low, the complaint issues are low, but obviously, I think we've mentioned before that the number being low doesn't mean that it's not still a big impact. So it's one of those where we've got to take it into account as, yes, it is a low number. Are there things we can do to improve that? Always a good thing to look at. But recognize that just a low number doesn't mean it's not a big impact. So again, things to think about.

Let's go ahead in our agenda and talk about continuing our discussion on additional security mechanisms. We had quite a few comments go in on the locking and additional, so I think we'd like to go through those comments and give those people some time that made comments if they need to add any additional so that they can add any additional context to their comments so everybody understands where they're coming from.

But we'd like to go through that in the working document. So I think I'll turn this over to Emily to run us through the comments that we received on that document.

EMILY BARABAS:    Thanks, Roger. Thanks to everyone who took the time to include input on this document. I think what we'll do first is just run through some of the new items that came through to see if there's additional input on those, and that will help staff incorporate the input into the documentation about the locks. And if you all don't

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mind, I might invite those who did put some new comments in to speak to some of the items they've included here as well.

So staff has an action item to add to the table the URS-related lock, and we'll go ahead and do that. This purple row, as you all know, is the focus of our discussions or this charter topic. Sarah included a comment that she wanted it clear that this row is about the registrar applied lock in general but that the item that's in scope for the charter is specifically about whether locking should occur by default on registration. So we've provided a clarification there.

We've updated the ordering of the items in this table in response to the feedback from Sarah that items that are similar should be clustered to help folks process the information. we've gone ahead and done that.

We have a comment from Steinar regarding the post domain creation locks. Steinar says that regarding the registry agreements being the sources of those locks, that for new gTLDs, the applicant needed to define the lifecycle and he says he believes the majority of new gTLDs have a 60-day transfer lock after registration where the server transfer prohibited is set. Steinar, is there anything else you want to elaborate on there?

STEINAR GRØTTERØD:    Hi. I was kind of confused that it was not mandatory to have the 60-day transfer lock after creation, but the way I understand now is that it has to be defined by the registry operator in the agreement. So that was just a clarification. I think the majority do

have the 60-day transfer lock after registration. So question is, is that something that we should discuss? Thank you.

EMILY BARABAS: Thanks, Steinar. And I'll note that the second column of the spreadsheet discusses whether or not the item is currently in scope for the charter questions, and it notes that the lock is obviously tied to the reasons for NACKing, and those reasons for NACKing are addressed in the charter questions in phase two, specially questions H1 and H2, although discussion of the lock itself is not currently within the scope of the charter. So I don't know if anyone else wants to comment on that. I'll pause for a moment.

The next new comment we have is from Barbara regarding the text from staff that was saying that no opt out with a question mark and she clarifies that in some registries, the post domain creation lock is systematically enforced and it's not possible to opt out. It's not necessarily implemented using the server transfer prohibited epp code. Did anyone else want to comment on Barbara's clarification there? Or Barbara, please feel free to elaborate if you'd like to.

BARBARA KNIGHT: I don't know that I necessarily need to elaborate on anything, but I can say that at least in the case of .com and .net, there are provisions within the RAs, the registry agreements that go probably back to 1999 that talk about the prevention of a domain name from being transferred for 60 days post creation.

So based on that, I guess the way our systems were designed were to systematically enforce that, and I believe that may have even predated when server transfer prohibited for instance EPP codes came into effect.

So based on that, we don't necessarily set those at our registry. That's not to say that other registries may choose to restrict it using the server transfer prohibited EPP code, but at Verisign, it's just kind of baked into the code, if you will. So it is not possible to opt out of those.

EMILY BARABAS:          Thanks, Barbara. Roger.

ROGER CARNEY:          Thanks, [Emily.] And I'd just go along with what Barbara is saying, and I think someone else mentioned this in a different meeting that we've had, is some of these locks aren't necessarily EPP locks. Some registrars and registries are just doing these based on policies and there's not actually a physical EPP lock on them. So just something to remember, that not all these locks are actually a specific EPP code. It may be just a policy that someone's trying to enforce. Thanks.

EMILY BARABAS:          Thanks for that. Keiron, please.

KEIRON TOBIN:     Thank you. I think a couple weeks ago, someone did mention that there was a bit of confusion across different registries and whether registrants can transfer in and out within certain criteria. I think the majority of the major ones, the larger ones do hold the 60 days after creation, whereas maybe some of the newer ones don't necessarily implement that. But down to the registry point of obviously Verisign and others that may also implement that, I think it should be down to the individual registrar to set that, and I don't think any change in regards to that is probably required. But that's just my input. Thank you.

EMILY BARABAS:     Berry.

BERRY COBB:     Thank you. Building on what Roger said, to be clear, when you said that these are policies that are being adhered to, these are policies from the registry to the registrar, not an ICANN-related policy. Is that a fair statement? And my second comment, I think to Keiron's point, the change that you might have been referring to that it should be up to the registrars, someone can correct me if I'm wrong. First, I don't think that that is within scope of the transfer policy per se. But even if it kind of is, then that is really something that gets negotiated between the registry and registrars, if I understood that correctly. Not something that ICANN would enforce.

ROGER CARNEY: Thanks, Berry. You're right, the policy, I think we have to recognize everyone has their own policies. Registrars have policies, registries do. ICANN hopefully pulls some of those together. But yes, and then there's some agreement also that the registries and registrars will have together.

So I think some of those locks are being handled in those different concepts, not necessarily in the ICANN policy terminology. So thanks, Berry, for clarifying.

EMILY BARABAS: Thanks, Roger. Kristian.

KRISTIAN ØRMEN: Thank you. Maybe if Berry could clarify, because I'm not sure I understand why would a transfer lock be out of the scope of a transfer policy.

BERRY COBB: That is not, but right here, I believe we're talking about a post-domain creation lock. And if I understand that correctly, that is nothing to do with transfers. But happy to stand corrected.

KRISTIAN ØRMEN: The lock is to not transfer the domain to another registrar before 60 days after creation. So it is a transfer lock, it's just this particular lock is just after registration.

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EMILY BARABAS:    Does anyone else want to weigh in on this point? Berry?

BERRY COBB:    And perhaps I'm confusing myself, but the post-creation lock as we have listed here in this row is not an existing requirement that is enforced from an ICANN consensus policy. My understanding is that this is a policy created through the RRAs from Verisign to registrars. So again, while this particular—and apologies, Barbara, for calling out Verisign specifically. That's not my point. But I guess that if registries have their own policy about locking a domain name and preventing transfer 60 days from creation, that is not related to the transfer policy for existing requirements.

Now, that said, that doesn't prevent this group from trying to create a consensus policy that is consistent across all registries that a domain should not be transferred 60 days from creation. And I see a slew of hands, so hopefully ...

ROGER CARNEY:    Thanks, Berry. I think you just hit on it, is what I think Keiron and Kristian were trying to get to, is these locks do exist and I think that not just in the RRAs but even in the RAs themselves, the registries have put this in there.

But I think to Kristian and Keiron's point, should this be something that this group looks at that says, yes, you can't transfer so that it's across the Board, or should there be whatever transfer reason here? Again, I'm not saying to have the lock or not have the lock, I'm just saying, should there be a transfer policy that says

something about this first X days of creation? So just my comments. Thanks.

EMILY BARABAS:          Thanks. Barbara, please.

BARBARA KNIGHT:        Thank you. I guess just to clarify again, this really is a legacy item that came into several of the longstanding registry agreements. I know our legacy agreements have it, as well as I believe .biz also has it. I didn't look at a lot of the other ones, but I don't think it's exclusive to Verisign for there to be a provision in the RRA. And I believe that's specifically in the functional specifications. I think that's what the title of Appendix 7 is.

And I don't think it's necessarily unique to Verisign, but I do think it's unique to the legacy TLDs that have been out there for quite a while. And just speaking from what that functionality does, I would tend to agree that it is a transfer lock because to my knowledge, I don't believe that there's other locks that would prevent other updates to a domain name. For instance, it's not like there's a server update prohibited where you wouldn't be able to update nameservers and that sort of thing. I believe it is exclusive, at least the one that we implemented would be exclusive to just the transfers.

EMILY BARABAS:          Thanks, Barbara. Roger, please go ahead.

ROGER CARNEY:                Thanks, Emily. Kristian, please go ahead.

KRISTIAN ØRMEN:             Thank you. So since the registrars are going to talk internally about if and when and how long we should have locks, I'm not going to that much detail into that. But I just wanted to say that I definitely think that this should be part of this PDP. I definitely think [there's a transfer PDP should] include when it's allowed to lock a domain from transfer and when it's not. And maybe this is something we can't change because of old registry agreements, and so be it, but at least we have looked at it, we have looked at all the details and put into the policy how it's going to work. But I definitely think this should be part of this working group and it is within scope, because it is a matter of when you can or can't transfer a domain name between registrars. Thank you.

ROGER CARNEY:                Thanks, Kristian. And I agree that I think the discussion on obviously—and I think Berry wanted to kind of separate those—if there's a 60-day lock that the registries are doing, that's not really part of this, but how the transfer interacts with that is what this group is responsible for and should have discussions around that.

and to your point, if that changes anything, that would have to be determined. But I think when we're talking about allowing, disallowing, whatever we do during that creation period, this group can talk about that in the transfer scope. And again, it's nice to know where that 60-day lock is coming from, but no matter what it

is or where it's from, this group should talk about if transfers should be allowed or not allowed or when or how to get around them if that's one of the options or not. I think that's definitely in scope for this team. Thanks, Kristian. Theo, please go ahead.

THEO GEURTS: Yeah. I agree it's definitely within scope. I'm not sure if I agree that we now know why it's coming from—of course, it's specified in the registry agreements, and apparently it's legacy stuff from decades ago. Maybe  times were very slow and you had to have a 60-day lock because you were still using faxes because EPP wasn't around. But my question would be why do these registries have a 60-day lock, what does it do, what is the purpose, what is its function? And does it still have a function today? Thanks.

ROGER CARNEY: Thanks, Theo. Keiron, please go ahead.

KEIRON TOBIN: Thank you. Going back to Theo, I would probably say I believe it does, especially with regards to chargebacks and stuff like that, because if someone was to register a domain and then transfer it away to a different one and pay for another year's creation there and then a couple of days later, it goes back to the original one and different payment methods, and they just keep moving it around, you're forever chasing a shadow. So that was something that I believe it's probably good for, at least a kind of view of a lock.

The other thing I wanted to bring up with Barbara—sorry to single you out—in regards to Verisign's specific 60 days. If a legal matter appeared in regard to that time or something like that, would Verisign have an option to veto that and go over it, or is that just the standard kind of—have you ever experienced anything with regards to that? Thank you.

ROGER CARNEY:      Thanks, Keiron. I'll let Barbara jump in if she wants to.

BARBARA KNIGHT:      Thank you. Yes, Keiron, to the extent that Verisign or I assume most any other registry would get a court order saying that the domain name needs to be transferred, then there are mechanisms by which we would be able to effectuate that at the registry. But it would require a court order being presented. That's been my experience.

But my team actually does process all the court orders that we get, and I don't recall seeing anything—at least not in recent history—relative to a domain name that was within that lock period, a court order being received within that 60-day period for instance.

And for what it's worth, Keiron, my understanding is the same as his as far as the value of why that 60-day lock was put in place after creation, is because it was intended to kind of protect against those chargebacks and things bouncing around as well. So that's my understanding from the folks that I talked with who actually were here at the time that those agreements were done.

ROGER CARNEY:          Thanks for this, Barbara. Kristian, please go ahead.

KRISTIAN ØRMEN:        Thank you. I was just thinking that it would be valuable for the group if we knew how many registry agreements had this in them, because if it's all of them, then maybe we don't really have to care that much about it. If it's only the legacy one, then it could be important to include it in the policy to get all the new ones included so we could streamline it and have the same at all registries. I'm just thinking out loud, but right now we know from Verisign and .com how it is, and it's a legacy thing, it's in the contract. I don't really want to touch on Verisign's contract, that's definitely out of scope of the PDP. But it would be nice to have that information. And I don't know if that's something we can ask staff about. I know it's quite a big ask for all those contracts. I don't know how we would usually gather that data. Thank you.

ROGER CARNEY:          Thanks, Kristina. Keiron, please go ahead.

KEIRON TOBIN:          Thank you. I think in terms of each registrar, it has to be down to them to make that decision. This is just my view. It depends on what business model they work on. Obviously, if they may sell domains and stuff like that and want to get them out faster, then it should be the registrar who has that decision, obviously, with ones that are protected by the RRAs, and then that would be a different

matter. But I don't think we should kind of be telling other registrars kind of how to run their businesses. It may be more disruptive. But that's just my opinion. And I think the way it works at the moment seems to be working for the registrars. Thank you.

ROGER CARNEY:     Thanks, Keiron. Barbara, please go ahead.

BARBARA KNIGHT:     Thank you. Just to elaborate further, I think it's hard to say how many transfer [disputes] there may be if that particular provision was removed and we've relaxed that functionality. I can say that as reported in the latest published monthly registry operator report on the ICANN website for .com, we had over 500,000 successful transfers that were processed in the month of July.

So it's really hard to say whether or not that may be a legacy requirement that is actually lending itself to a more secure I guess transfer policy, if you will.

ROGER CARNEY:     Thanks, Barbara. And again, I know a lot of the people on this call love the numbers game here. When we start looking at the number of transfers, I don't know that this 60-day lock has been— the creation lock has been a true blocking for a lot of transfers. I think when we start looking at numbers, the amount of new registrations that look for it are probably going to be fairly low. But I think the one thing that this group has always talked about is trying to be consistent. So either way we go, it would be nice to be

consistent in that way. Registrants, no matter what name they're looking at, have a consistent—something they can depend on occurring, no matter what name it is for them. Just to add on to that. Steinar, please go ahead.

STEINAR GRØTTERØD: Just personal opinion here, because I see more and more ccTLDs also kind of indicating or implementing the policy of a lock after creation. And I think from an end user perspective, it will be easier to understand this if everybody has it. I was kind of surprised—I'm repeating myself—that there were TLDs that didn't have the 60-day lock after creation. I'm really excited to know the name of these TLDs, because it's a curiosity. Thank you.

ROGER CARNEY: Thanks, Steinar. And I agree. And again, I think the important part there is be consistent. Again, not just to make policies easier but to make the registrants' lives that much easier so they don't have to remember a different rule for every different name they're trying to do. Theo, please go ahead.

THEO GEURTS: Thanks, Roger. and you just gave me an idea there, and I guess Steinar also. If you're looking to be consistent, why don't we reach out to the ccNSO and check if our assumptions match the reality in the ccTLD world? Because when I look across the spectrum in Europe, I don't see many post-domain creation locks. So I think it would be good if you are trying to be consistent with the reality, what's out there, let's face it, ccTLDs do make up for a huge

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number of the domain names. Not as large as gTLDs, but it's pretty close. So maybe it's an idea to reach out to ccNSO or perhaps CENTR, they usually have some statistics around that. Thanks.

ROGER CARNEY:     Thanks, Theo. And again, obviously, we're doing gTLD stuff, but one of the biggest things you always try to look at is other industries. And we have such a close industry in the ccNSO side that it would be good to see how they're doing it, even if that's just for information for us and not necessarily a direction that we take with it. Again, it's fairly same industry and it's just always good to look outside your own industry for solutions that others are doing.

Okay. We'll circle back hopefully before we close today. But I want to try to get through the remaining comments in the document so that everybody can have a good understanding of what the comments mean and what they're there for. So I will turn this back over to Emily.

EMILY BARABAS:     Thanks, Roger. So I'm just going to keep powering forward so everyone has a chance to take a look at these and comment. There's another comment from Barbara here, and this is on the element that currently is in the transfer policy, which is the piece on NACKing as we talked about earlier. There was a question about whether the policy language should potentially be changed from a may deny to a must deny. Barbara weighed in to say that may deny is more appropriate unless or until all registries

mandate the lock. So of course, others, if you have input that you haven't been able to say verbally, you can drop in comments with your thoughts on that as well, or if anyone wants to comment further verbally, please do.

Seeing none, the next comment was from Zak on the lock subject to the UDRP proceeding, and Zak is referencing here the UDRP policy. I think it's just a quote from the policy itself. Zak, please go ahead.

ZAK MUSCOVITCH:     Thank you. I'll try to be brief. A question regarding the UDRP locks. These locks, as you pointed out, come from the UDRP policy itself. There's going to be an RPM phase two that's going to review the UDRP at some point. So in terms of this working group's role vis-à-vis the UDRP locks, I guess it's something that we wouldn't necessarily look at here, but we would ask that phase two RPM working group to review and let us know what changes they might recommend in terms of the transfer policy in that regard. What's your sense of how this would work? Thank you.

ROGER CARNEY:     Thanks, Zak. And I think that obviously, we can do some broad strokes here, and hopefully we can cover that and cover everything that they do change by not being specific, but pointing to that policy saying—and again, one of the big things here is a NACK, and we can keep that same NACK as per UDRP policy, and we can keep that same thing in there even if they are changing that slightly, and it shouldn't affect this policy hopefully.

Otherwise, if changes do break policy, then yeah, they'll be required to take a look at that as well.

EMILY BARABAS: And just noting, again, we're documenting all of the locks here. That doesn't necessarily mean that we need to specifically address all of them in any way in the policy recommendations. I think some of the work that we're doing in this table is really just to clarify what exists, where the requirements come from and how it may interact with the work that's in scope as envisioned by the charter questions. So again, here there's sort of an intersection between the lock and the reasons for NACKing that are in the phase two charter questions. So just noting again that we're going through this table again but some of it is just to document what exists and doesn't necessarily require us to take action from the perspective of the charter. Anything else on this item? Okay.

We have a comment on the redemption grace period lock from Barbara. She's suggesting changing the text from registry lock to registry imposed lock to avoid any confusion with the registry lock service. If there are no concerns or objections to that, we'll make an adjustment to the text.

Okay. And we're at the final row of the table now, the registry lock service. We have another comment from Barbara here on ... [staff filled in] origins of the registry lock service are the registry/registrar agreements, and Barbara notes that some registries have separate registry lock agreements with registrars to govern the service as not all registrars opt to offer the service. So thanks, Barbara, that's a really helpful clarification and we can add that in

as well. I don't know if anyone else wants to comment on that or if Barbara, you want to say anything else about that.

Okay. Again, here, [staff filled in] our understanding of the EPP status code that would be set by the registry here, and Barbara notes that in addition to the server update prohibited EPP status set, a lock on the domain name likely also has server transfer prohibited and server delete prohibited EPP status codes set. So we can note that as well.

Does anyone else want to add anything or elaborate further on that? Okay, so I think that's it for the table. The next section of the document that we asked everyone to look at was whether there were additional security measures that folks wanted to discuss potentially in scope for this section of the charter. So there's not any specific charter questions regarding other potential additional security measures, but the group can certainly consider those and discuss them further.

I can just run through quickly the ones that have been discussed so far under this charter topic that staff has recorded, and we'll note that Steinar has added a comment here. So the first one was about requirements regarding logs that registries and/or registrars must maintain with respect to the transfer.

The second one was about multi-factor authentication and to the extent that that should be discussed by this group, whether it's in or out of scope. And I think the feedback that we were hearing from the group was that multi-factor authentication to access the account while beneficial and can reinforce other security measures may be out of scope for this group in terms of

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prescribing requirements, although the group could provide some sort of guidance or commentary on that.

And then multi-factor authentication regarding accessing the TAC or unlocking the domain. Some folks said that this could potentially be in scope for the working group to make a recommendation about, but there was some feedback that working group members felt that this would be too restrictive in terms of the ability to make a transfer.

Steinar mentioned a secure way of informing a registrant about the TAC should be implemented. This indicates that e-mail may not be sufficient. Steinar, do you want to speak to that further in terms of an additional security item that might be wroth discussing here? Thanks.

STEINAR GRØTTERØD:      Hi. Yeah, it's purely my thought is that if we kind of make recommendation to access the system that the registrant can see or get the TAC and then it's being distributed by simply e-mail, it doesn't make sense in my mind. And I think we have touched this in several different discussions, that we should have some sort of wording about a secure way of distributing the TAC [and maybe it] could be seen on the control panel as an example. I don't know, but simple e-mail is definitely not a good way to do this. Thank you.

EMILY BARABAS:      Thanks for the clarification, Steinar. Theo.

THEO GEURTS:     A question. I understand for a lot of purposes, e-mail is perhaps not very secure anymore. If that is in relation to the TAC, I'm not 100% sure there. I think it depends on a lot of factors to it become very insecure. But as a registrar who's working with resellers, from operational point of view, I wouldn't see any other option to provide—other than e-mail. That is basically one of the very few options that we have to provide a registrant with a TAC, through e-mail. The other one would be SMS, but that we can also argue how secure is SMS.

So you are hitting on—I think it has to remain up to the registrar to determine what is a secure method, because if we are going to restrict registrars, then we might be in a position that we are creating a lot of problems here. So I'm just pointing out that it's not something that is going to be a very easy track to go about. Thanks.

ROGER CARNEY:     Thanks, Theo. And I agree. And again, I think that the important part here—and I think we've all said it all along—and that's why we tried not to be too specific, is making the recommendation that it is providing a secure mechanism, what that is and what level of security that is, I think, is a difficult question to answer and maybe not one that we can even do here.

But yeah, I think obviously, you're looking for that balance and you want it to be as secure as possible because one of our vectors

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that we're talking about is someone's e-mail gets hacked and then things happen that way. Steinar, please go ahead.

STEINAR GRØTTERØD:    I agree with you, Theo, it is impossible to force this into the policy. But my intention was to kind of signal that the distribution of the TAC is also one of the security elements that the registrar has to think about when they're making the provisioning line for this, also including those registrars who do have a reseller model. So like Roger said, some wording saying that it has to be done in a secure and safe manner, that's my intention referring to this or pointing this out. Thank you.

ROGER CARNEY:    Thanks, Steinar. Theo, please go ahead.

THEO GEURTS:    Thanks, Steinar. And I think what you just mentioned, that we put in some wording like "in a secure manner," etc., what I'm trying to prevent or what would keep me up at night is if we come up with specific language where the registrar has to do something and is not in a position to do that. Often, within the RRA, it says registrar shall do this and this and communicate this and this.

And very often, I can't do that because I don't have access to any of the reseller backbone system, so to speak. I don't have access to the platforms or whatever, so I need to rely heavily on what a reseller has to do. So if a reseller has to distribute the TAC in a secure, efficient manner, I'm all for it. But I want to avoid that we

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run into operational problems where suddenly, this policy starts to dictate how registrars should communicate or distribute a TAC. That shouldn't be too narrow. We should think about that very cautiously. So I'm all for security, but within reason and not too specific and not too narrow. Thanks.

ROGER CARNEY:    Thanks, Theo. And I think everybody is on that same line. And again, I think we all have to think about it when we get to that wording.  Obviously, we're encouraging that secure and safe way to do it, but we're going to leave that operational functionality up to those that are implementing it to the degree that they need to. So again, I think we need to work on that wording. Everybody needs to think about it so that it makes sense but is not overly prescriptive for the implementers not to be able to do what they need to.

Okay. Emily, is that the end of our edits, comments?

EMILY BARABAS:    Hi Roger. Yeah, that's the end of what we have. I think as homework from the last discussion, we asked folks to add additional items that perhaps were used as security practices in other contexts that might potentially be applicable here, if only to rule them out as not necessary to include in the recommendations. But as far as I know, we haven't had any other suggestions for that. I think that's all we have here. Thanks.

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| ROGER CARNEY: | Great. Thanks, Emily. Okay, we've made it through all the comments. And maybe I'll throw out something that I've noodled on for the last three or four conversations or maybe even further back than that, about this, and see where it takes us and say, for the consistency idea—and I think Zak brought this up quite a while ago—and I struggled when he said it at first to find a way to make what he was saying doable, but as I thought about it—maybe Zak already knew at the time, which would have been easier for me, but I think that I'll throw this out there and see what people think, being a 60-day transfer lock on both creates and transfers but with an opt-out feature. |
| | Theo, please go ahead. |
| THEO GEURTS: | Sounds like a great idea to me. |
| BERRY COBB: | Roger, are you there? |
| EMILY BARABAS: | I think we may have lost Roger. We'll work on getting that sorted, but I see Berry's hand up, and then Steve. |
| BERRY COBB: | Thank you, Emily. To Roger's poll question and suggestion, another question that this group might want to ask—and I noted it in the chat earlier—is a lot of it seems to be around consistency. That's fine. And the way Roger framed it, I think, is a path towards |

consistency. I think the group should also ask the question, the rationale for such a thing other than consistency. Are there security components related to it? And then lastly, what I would just add is the duration. Does it need to be 60 days? Could it be shorter or longer based on the rationale that the group comes up with? Thank you.

ROGER CARNEY:          Thanks, Berry. And I agree, those are all good points to look at. And I think all those have to get answered to some degree. So I think that no matter what path we go down, all those will have to be answered. Steve, please go ahead.

STEVE CROCKER:          Thank you. I'm just responding to the thought I think you expressed, that perhaps the 60-day lock could be optional, in which case that translates into a lock that is fundamentally settable by the registrant with the default being that it's set as a guard rail, which seems like a reasonable idea, but fundamentally, it puts it back in the registrant's hands to turn that off. And then the question of how long it's set for is less important in a way in that after 60 days, if they don't set it specifically, then it goes away and if they choose to turn it off, they can turn it off at any time. That would be my translation of the idea of making it optional.

ROGER CARNEY:          Great. Thanks, Steve. That's exactly the thought, too, that I think Zak said the exact same thing several weeks ago—months ago, maybe. And that was the thing I started noodling on, was trying to

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figure out, okay, how do you make it flexible, optional but consistent? That's something that I had to think about for a little bit. So hopefully, yes, you're right, I think you're on the right path there of it's a default lock—and again, X days or whatever everybody thinks. But there's a way to bend that if necessary.

STEVE CROCKER:     Yeah. Let me offer two other comments. One is if it's going to be optional like that, then why not just leave it set indefinitely and the registrant can turn it off? And that sort of removes it—integrates it with a registrant-settable lock. That's one comment.

And then the other is, what exactly is this trying to protect against? Is it an accident or a malicious activity by a registrant? In which case giving the registrant the option doesn't solve the problem that it was designed for. So I think some clarity as to what that 60-day lock is intended to protect against needs to be very clear. And there may need to be two different things, in which case you need two different mechanisms.

ROGER CARNEY:     Thanks, Steve. And I think you're right, and I think that we heard several times on this call that some of the reasons for that original 60-day lock may have been chargebacks and things like that. So maybe that opt-in, maybe even a soft-opt-in that still is controlled by the agreements that go into it saying, okay, yes, but it also has to be paid for, whatever it is, that makes that opt-in possible.

STEVE CROCKER: There could be constraints on what the rules are for turning it off. That is, the registrant may say [we want to have it] turned off and the registrar can come back and say, "Yeah, but we haven't quite finished our transaction here."

ROGER CARNEY: Right. And again, just an idea. Thanks, Steve. Keiron, please go ahead.

KEIRON TOBIN: Thank you. Yes, in regards to the opt-in and opt-out, that is something that GOSCI, University, does currently have in place, because we also have in place because we also have domain name sales, which is our marketplace. So that is something that we have the opt-in, opt-out. It's nothing to do with creation though, it's only on transfer. And we do have certain criteria put in place in order to protect ourselves against chargebacks in regards to that as well. So I'm happy to go into more detail in regards to that if needed for the rest of the group. And just in addition to some of the other locks as well, on creation, I've reached out to a couple of people in the industry, registries [inaudible] just to find out whether they have the 60-day lock imposed as well. So hopefully, I should hear back from a couple of those within the next couple of days and I might be able to get a chart or something going where we can see who the registries are that have that 60-day lock imposed on creation. Thank you.

ROGER CARNEY: Great. Thanks, Keiron. Zak, please go ahead. Since I've been blaming you for all this, I'll give you some time.

ZAK MUSCOVITCH: Thanks. You made it all sound so simple, Roger. I love it. Elegant solution. But yeah, I guess we're going to all have to noodle on it as well, and Steve raises some great questions related to that.

I think one of the things we would consider is that even though a registrant may opt out from the default under this concept, I think that registrars would of course want to retain rights to override that opt-out under certain circumstances for their own protection or for their own business reasons, etc.

So even though a registrant may have an opt-out doesn't necessarily mean that that's the end of the story. So registrars could retain some protections under that concept.

The other thought that I have related to the concept is that the ability to opt out, if it forms part of the solution, is great, but making it readily available and obvious would seem to me to be a key component of it, because—and a lot of registrars do this very well, but some registrars, it may not be obvious to the registrant that they can opt out and that there [isn't] some functionality to do so on an automated basis or involves phone calls and asking outside of the normal procedure to get that done. And that's something that I would think under this concept, we would want to avoid. Thank you.

ROGER CARNEY: Great. Thanks, Zak, for that input. Theo, please go ahead.

THEO GEURTS: Thanks. Having the option to opt out from such a requirement, I think that would be great. Now and then, we get some transfers in and when we look upon the domain names that just transferred in and look at the content, we go, "Okay, this may be borderline legal, but this is definitely something we don't want to be associated with." I'm not going into the details, they're too gruesome. So we usually ask those people to move out right away, and then a 60-day lock is just super annoying and sometimes damaging and creating complaints while we as registrar cannot even deal with it because it's a content issue. So yeah, having that option would be great. Thanks.

ROGER CARNEY: Thanks, Theo. Kristian, please go ahead.

KRISTIAN ØRMEN: Thank you. I don't remember who, but some said that if this was optional, they would think it was optional for the registrant. And I just wanted to add a bit more layer to it, that optional could be optional for the registrant or for the registrar. It could be for the registry. And today in the policy, we have those different levels as well.

For example, with the change of registrant, it is possible for the registrar to give the registrant the option to have the 60-day lock or not. But the registrar can also decide not to give the registrant

that option, and other places where the registrar might choose something which is optional. So just wanted to add to that that it might not be the registrant that have it optional, it could be the registrar have optional policy features. Thank you.

ROGER CARNEY: Great. Thanks, Kristian. Zak, please go ahead.

ZAK MUSCOVITCH: Thank you, Roger. Regarding Kristian's point, yes, that's a potential part of the concept as well. I have given it some consideration. The thought I had about it is that it certainly is possible to give not just the registrant the option to opt out but as Kristian mentioned, the registrar itself can opt out of giving the option, if I can put it like that.

And I think it's possible to consider that, but if it were to be part of the concept, what I would like to see is that transparency from registrars that they have opted out of that. That way, consumers, registrants, businesses would be able to identify the registrars that provided the right balance of security versus portability that that particular registrant wanted. So if the registrant wanted to look for a registrar that provides the opt-out, they'd be able to easily identify that up front. Thank you.

ROGER CARNEY: Great. Thanks, Zak. Another good look at the possible additional requirements needed around—to the point of an opt-in with an opt-out and making sure that there's transparency there so that

everyone that's involved there is aware of why and what's going on. Okay, again, I think just throw the idea out.

People—I think Zak said it as well—need to think about it, the issues it can cause. Obviously, maybe it makes things consistent, but does it cause more problems? That's not what we're looking to do. Does it make it harder? We're not trying to make it harder. So I think consistency can't always depend on it if it's going to make other things more difficult.

So I think for the group, just think about it. Next week, we'll be hitting on that topic early in the agenda again. Just spend the week and think about it and see. And again, add to this document as much as you need to, your thoughts and your comments. We can get them addressed just like we did today. But yeah, think about that idea over the next week and we'll pick that up early next week and we'll move on to some other work as well.

Looks like we have just a couple minutes left, so I'll open it up if anybody has any comments that they need addressed now. Okay, well, everyone have a good week, and again, think about it. We'll start on that and then we'll get into some of the losing FOA draft candidate recommendations as well.

So again, think about it, and we'll see everyone next week.

JULIE BISLAND:     Thank you, Roger. Thanks, everyone, for joining. This meeting is adjourned.

**[END OF TRANSCRIPTION]**