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## ICANN Transcription

### Transfer Policy Review PDP WG

**Tuesday, 09 May 2023 at 16:00 UTC**

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DEVAN REED:

Good morning, good afternoon, and good evening. Welcome to the Transfer Policy Review PDP Working Group call taking place on Thursday, or excuse me, I'm sorry, Tuesday, 9 May 2023. For today's call we have apologies from Raoul Plommer, NCSG, Owen Smigelski, RrSG, Chris Delondo, RrSG, Prudence Malinki, RrSG, and John Woodworth, ISPCP. They have formally assigned Juan Manuel Rojas, NCSG, Rich Brown, RrSG, Essie Musailov, RrSG, and Christopher Patterson, RrSG, as their alternates for this call and for the remaining days of absence. As a reminder, an alternate assignment form must be formalized by way of Google Assignment Form. The link is available in all meeting invite emails. All members and alternates will be promoted to panelists.

Observers will remain as an attendee and will have view chat access only. Statements of interest must be kept up to date.

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Does anyone have any updates to share? Please raise your hand or speak up now. Please remember to state your name before speaking for the transcription. Recordings will be posted on the public Wiki space shortly after the end of the call. 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:

Great, thanks, Devan. Welcome, everyone. Just a few updates before we get into our agenda. I just wanted to remind everybody we were looking for some of the proposals from the list of the informal processes, and we haven't seen anything yet so we won't be covering anything today on those. We won't directly cover anything on those. We will be going through the charted questions, so we may touch on a few of those if people bring them up. We haven't seen anything formal on the informal process, cover that yesterday. So we won't specifically cover that today. I think that's probably the big thing. Steiner, please go ahead.

STEINAR GRØTTERØD:

This is Steiner for the Record. I just want to inform you that at the CPWG meeting last week we discussed the proposal from the small team, and there was some sort of a consensus that their proposal should be turned into policy, but maybe not as the steps regarding changing of DNS and so on, because we have previously said that we won't touch that kind of processes within the policy. However, we haven't come to any proposal of the wording. It was just like a signal to the working group that at large

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CPWG kind of like to have that kind of process wording into the policy. So that's an update. I hope that is okay for this time. Thank you.

ROGER CARNEY: Great, thanks, Steiner. That was great. And with that, I'll open it up to any other stakeholder groups that have had any discussions or want to bring anything forward for this group. Please come to the mic if you do. Maybe I'll have Emily jump on and give us a quick overview of our project plan stand and where we're moving here. Emily, you want to walk us through that?

EMILY BARABAS: Hi, Roger. This is Emily from staff. Let me switch the screen share over. So looking at a snapshot of our current project plan, we have one action item that we're closing out now, which was this request by yesterday to provide as comments in the small group working document, any concrete proposals for policy requirements for informal resolution in non-emergency circumstances. So we'll be closing that one out.

Today, we're going to be focusing back on the TEAC charter questions. So that's meeting number 90. After this, we have four more meetings before ICANN77. And the goal here is to have some concrete outputs in draft form to share with the community at ICANN77 on both TEAC and TDRP.

So you'll see today that we have a little bit of a different approach that we're piloting and would like to get your feedback on hopefully at the end of the call. But we've got some perhaps more focused

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content and suggestions to help hopefully get some agreement around a direction for each of these charter questions. We'll be meeting at ICANN77 as we discussed last week. And then you'll have seen that you received three more meeting invites, one for, so we won't meet the week after ICANN77, but the following week, which is the 27th of June, we'll be meeting. And then we have two meetings scheduled for July on the 11th and the 25th. We'll be skipping July 4th because that's a holiday for a number of people in the US. And I believe it's the 18th, we'll also be skipping as Roger will be away.

We're going to send you all a brief poll, which we're asking you to fill out about your availability in August, which will help us figure out when we'll be able to meet in August on those meetings. And I think that's it for our work plan at this time. So Roger, I will pass it back to you.

ROGER CARNEY:

Great. Thanks, Emily. And as Emily mentioned, we've put together a few slides actually. We've had the past few weeks, we've gone through a lot of discussion around TEAC and even TDRP issues. And I think we're transitioning from that discussion phase to more concrete answering of the charter questions now so that we can move our discussions forward and get them documented and recommendations moving forward.

Again, the goal being to get the TEAC and TDRP moved along by ICANN77. So you'll see a little different, not a whole lot different Emily used to put in the work documents all the recommendations, but here we've got it a little more structured. And as Emily

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mentioned, it'll be good to hear any input feedback on if this works or doesn't work moving forward. But with that, I think we can go ahead and jump into our agenda. Emily, you want to kick us off here?

EMILY BARABAS:

Hi, Roger. Sure. This is Emily from staff. So first, just a little bit of a review of where we are now on the TEAC charter questions. So we've gone through all the charter questions at this stage, we've looked at the available data and the inputs from the survey feeding into the report that preceded this PDP. So transfer policy status report, we've had some initial deliberations on each of those charter questions and temperature checking through polling to get a feeling for where the group stands.

There's also been some suggestions about paths forward through that exercise. We've now gotten written input from the SO/AC/SGs and Cs on these charter questions. We've added those to the working documents and at this stage, the expectation is that everyone has reviewed those and also that members are in a position to speak to those positions as we discuss these charter questions further for their groups.

And the current focus now is to converge on a direction for each of these charter questions and any recommendations that will come along with those. So again, here the focus is much more on less on brainstorming and more on converging on a direction so that we can put some pen to paper and get some language down for the community to react to.

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So we'll start with charter question F1. And for each of these, what we're going to do, again, this is what Roger and I both were alluding to earlier in this call, we're going to go over the charter questions or refresh everyone's memory, very briefly touch on the status. And this is not intended to summarize the full deliberations, every input, every written comment received. We're hoping that everyone has read that before this call again and done that refresher. But this is just hitting on a few high points in terms of where things seem to be converging or not based on the leadership's team review of all of that. Although we encourage you all to let us know if there's something key that's missing there or needs to be brought into the discussion.

And then Roger will talk about a possible path, which is a suggested path forward from the leadership team, from Roger's chair, along with the possible rationale for that, and anything that would need to be discussed further if the group were to follow that path. So again, here we're trying to get as concrete as possible. There's obviously for each of these charter questions, a number of proposals and options on the table and so forth. But we're really looking for a path that might potentially have viability as an agreement and something that can reach consensus. So please think about this with that hat on.

So our first charter question is about data and evidence. So the question is whether additional data is needed to support evaluation of the effectiveness of the TEAC mechanism, and if so, what data is needed. In reviewing the inputs from the Registry Stakeholder Group, NCSG, and BC, we see that each of them

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have said that it would be helpful to have additional metrics from registrars to support policymaking.

Now, in those comments, there wasn't a distinction made between backwards looking voluntarily provided information versus requirements going forward. But they did, those three groups did express that it would be helpful to have more data points to draw from making new policies. And in working group discussions and initial temperature taking with the polls, some support was expressed for requiring registrars to track and report on TEAC activity going forward. Again, this is just in brief so that we can get cover as much ground as possible. But I will pass it to Roger then to talk about a possible path on this one. Thanks.

ROGER CARNEY:

Great. Thanks, Emily. And I think Emily touched on one of the things when you look at this is when the charter question was probably written, the thought was is there any data needed for this working group? But as we discussed through over the past year, even more data would be great for us, though we're not necessarily trying to dig that out. But I think one of the important parts of this is looking forward, providing data for future reviews, even. And I know that as a working group, we talked about that as well.

So specifics, I think probably the thing to take to the next step here, I think it from what I've heard from this group anyway, everybody seems to support the idea of, yes, let's add some requirements for tracking this so we better know moving forward what's happening. So I think we just really need to get into the

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specifics of this and get to what can be tracked? And now we even talked a little bit about can something be put in NSP to not only provide some transparency on an ongoing process, but also provide those few data points as well.

I'm not saying that's the only solution. I'm just saying that obviously we've talked about several here. But again, I think that looking forward, what I heard from the group was, yes, let's go ahead and try to create some metrics. I think one thing for the group to think about now is what are those specific things that we're looking to track? And I would say not just registrars, but who is going to track these things. I think not just a registrar standpoint, but anyone involved. So it's something to think about, but I think that what we the group has talked about is, yes, it does make sense to do this. So Emily, please go ahead.

EMILY BARABAS:

Thanks, Roger. This is Emily again from staff. So we're going to be talking one of the challenges here, as is often the case, is that there's a lot of interplay between the charter questions. And so we're going to be talking a little bit later about channels for communication an authoritative system of record versus email versus phone and so forth. And because we have sort of a space to talk about that and understand that there's dependencies here. But it may be helpful initially to see if there is a support or acceptance for requirements around tracking in general. And then perhaps after we've talked a little bit more about system requirements and so forth, we can come back to this about specific metrics that would be required. I think at this point, we



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can talk about the types of things that would be most helpful to track.

So for example the number of first contacts was something that it seems like a lot of people had said would be useful. The sort of type of case, the type of resolution, perhaps the channels used, any records of abuse of the channel, perhaps timeframes for resolution and for initial contact. Those are some things that could potentially be useful for future policymaking that have been identified.

But I think even just getting some initial agreement that some sort of requirement around tracking would be useful and maybe at a high level, the types of things that would be useful could be a starting point here. And then if we wanted to come back to this after the discussion about channels and systems, we can do that. Thanks.

ROGER CARNEY:

Great. Thanks, Emily. And I think that's important too, to wrap that into that is some of the other items we may actually be creating pieces of these metrics as we go. And maybe we just need to call them out. So it's good to note that. But as Emily said, I think that when I look at this one, we've said this multiple times on different calls that this is a good idea. So to me, the working group has confirmed that this is a good idea.

I would ask this group if there are people that think, no, these aren't needed, to please speak up because I think the working group has clearly indicated that. And as Emily just called out a

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few, I think that those are the details we need to get into is what specific items are needed how many times it's initiated, how long it takes, whatever it is. But I think that to me, the working group has been clear that metrics are important, and we need to do that.

We just need to, as a working group, dig into what those fine points are. So but again, if someone thinks differently, please let us know, because I think that's important if I'm not hearing the group correctly. Again, I think the last point here is the point is what specific metrics that should be required or and again, just from registrars themselves, but maybe there's some that are else, maybe a registry is going to report how many times they get contacted on a TEAC that wasn't responding to or something things like that. I don't know exactly, but any of those points, Emily listed three or four that were great. I want to hear from the others, any other ideas on important metrics that we can use to move forward and start collecting.

No one has any ideas on metrics. I think with this one, again, to me, collecting it was clear from the group, and I think we can start with Emily's three or four points, and we'll start there and see if getting those on paper will start to spur some conversation. So for that, and again, I think that it's clear that we're moving in the right path here. We just need to fine tune exactly what we're looking for. So Emily, can you take us up to the next charted question?

EMILY BARABAS:

Hi Roger, this is Emily again from staff. So F2 and F3 focus on the current timeframe by which a registrar is required to give an initial response when contacted by the TEAC channel. The

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timeframe is currently four hours, and we've discussed extensively that there are some pain points that registrars have raised here with this four-hour timeframe, concerns about gaming in addition to concerns about the impact of this requirement. So the charter questions focus on whether that four hour timeframe should be revisited.

Currently, there were some initial deliberations on this charter question and some support was expressed for extending the timeframe from four hours to 24 hours. And looking at early written input that doesn't seem to, while different groups identified different possible timeframes, the 24-hour timeframe doesn't seem to contradict any of the inputs.

So the Registry Stakeholder Group noted that while there is an expectation that this is a 24/7 environment, so some of those initial concerns were maybe not something that they found compelling. There is a concern about gaming from a practical perspective with this four-hour timeframe. And the Registry Stakeholder Group also notes that in looking at previous, their own previous comments from the IRTP group, the Registry Stakeholder Group had previously supported a 24-hour timeframe.

The registrar said that four hours may be too short, but there should be a minimum deadline and said perhaps 48 hours to ensure that emergency transfer disputes are addressed in a timely manner. The NCSG said four hours is too short and at least 24 hours is appropriate. And the BC said, depending on the frequency and effectiveness of use, four hours seems generally appropriate for emergency situations, but it could perhaps be

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expanded to 12 to 24 hours. I will pass back to you, Roger. Thanks. Roger, is it possible that you're on mute?

ROGER CARNEY:

It was very possible. So thanks, Emily. I was just saying thanks to Sarah for the support and chat there. This is a great summary of our discussions that we've had on this. And we've had it multiple times maybe a little more sporadic and not a focus time, but we've danced on this a few times and the 24 hours seemed very a good compromise to everybody. I know I heard 48 hours a couple of times, but the majority of it was four was way too short and obviously the gaming aspect of it, but the 24 hours not only lessened the burden for registrars, but made it more practical again, to eliminate maybe some of that gaming of time zones and things like that.

I think we'll looking at the charter questions, yes, I think that the working group agreed that there was definitely an issue with the four-hour window. And I think that along with all the comments that the 24 hours seems to make sense. So I think we're looking at a good response here and I think we can move forward, but I open it up to any questions or comments.

And if anybody thinks 24 is too short, that it's important as well. But again, I heard a lot of support for the 24 hours.

Anyone? Anyone want more time? But 24 is very practical compared to the current four. Thanks, Rick, for that. And Emily I think we can move on.

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EMILY BARABAS:

So this is charter question F4. And as you'll recall here, there were sort of two issues that the group was considering with respect to this charter question. They're both about timeframes with respect to the TEAC. So we'll take them one at a time. The first one was about initial contact to the TEAC. And right now, there isn't a requirement for a specific timeframe. And some had considered that it might be appropriate to create more guidance around that. And then the second one is about the timeframe for the final resolution of an issue raised through the TEAC.

And you'll recall that section 1A462 of the transfer policy for that first part says that the communications to a TEAC must be initiated in a timely manner within a reasonable period of time following the alleged unauthorized loss of a domain. So first taking the first item, which is about the initial contact timeframe. We got input on this one from the registries, registrars, NCSG, and BC, and all supported providing more guidance around what a reasonable period of time might be.

In discussions, some working group members had favored providing a specific deadline by which the TEAC would no longer be used if it was past that deadline. Whereas others said there may be specific circumstances that require flexibility here, and you could still have an emergency when a pretty significant period of time has passed. And the group noted that given empirical data, it's pretty hard to set up a precise deadline around this, given that there could be a range of circumstances that apply.

The registrars have also raised both in discussions and in their comments that the timeframe should be aligned not with the alleged transfer or unauthorized transfer, but instead aligned with

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when the registrar is made aware of that unauthorized transfer. So kind of looking at it from the perspective of the registrar who would be contacting the TEAC as opposed to the recipient of the TEAC contact. And the BC has suggested a specific timeframe from the alleged unauthorized loss of a domain and suggested five days. Roger, I will turn it over to you.

ROGER CARNEY:

Thanks. Great. Thanks, Emily. and just to jump into a possible solution here on this, and maybe I'll even get a little more precise to this. The one thing that makes me think going back and forth on it, and I'll do that before jumping into the solution here, the possible path, is we had discussions around not the date of occurrence versus the date of reporting. So it's one of the, I suppose, the squishier spots of trying to nail down something. if a domain was transferred and someone didn't notice it for two weeks, can that be a TEAC or not?

Again, I think we're trying to avoid getting into that too detailed there. But let me read the possible path, and it's the initial contact to the TEAC should occur, generally occur no more than, and I'm going to say, again, get a little more specific, three business days following the alleged authorized loss of a domain. If the initial contact to the TEAC channel occurs more than three business days following the alleged authorized loss of the domain, the registrar must provide a detailed explanation of why it's still, why it is an emergency situation that must be addressed through the TEAC channel, including why earlier contact to the TEAC was not possible.

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Thanks, Sarah. You think 30 days is more appropriate, 30 days on unauthorized loss to match the lock period? Any other comments from anyone? Right, Sarah. that was the tough part trying to set a timeline, but obviously, we know things fall outside. So giving a path still, but with a little more detail to it, so. Thanks, Catherine. Rick, please go ahead.

RICK WILHELM:

Thanks, Rick Wilhelm, Registries. I like the idea of staying away from the trying to differentiate between when someone is aware and when someone is not, because I don't know how that would be validated in practice as a practical matter. I think that the thing you're suggesting of coming up with an objective number is better. The notion of 30 days is more, I think is reasonable.

I will note that the policy, and we put this in our comments, the policy does say following the alleged unauthorized loss of the domain, and it says it must be initiated in a timely manner. It makes the notion of awareness, I don't think creeps should be creeping in anywhere because it's the responsibility of someone who is responsible for the registration to be aware of what's going on with something that's within their control. That's what responsibility is all about, as everybody with an earshot knows because we're all responsible for various things and sort of being asleep at the switch is not an excuse for that. I don't believe because that's pointing off your responsibility on someone else's, but a 30-day window would seem to be fine. That's certainly an example time to be asleep. Thank you.

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ROGER CARNEY: Great. Thanks, Rick. I think that's great. I think that that's good input on that. And I think we can move forward with that. And again, we'll plop into there and use that. So thanks everyone for that. I think that, that covers this one. Emily, I think we can move to the next one. Emily, do you want to go through that?

EMILY BARABAS: Thanks. Sure. Happy to. Emily again from staff. So this is the second part of the F4 item and it's focuses on the timeframe for final resolution of an issue raised through the TEAC channel. So this is one that's not explicitly addressed in the charter question itself, but something that has come up in discussions and has been raised as a concern in the survey results, I believe, as part of the transfer policy status report. So the concern here is that the TEAC gives an initial response that's not necessarily substantive and then nothing happens for an extended period of time. And there's no accountability around that, I think is the concern.

So with respect to this issue in discussion, some working group members have noted that it would be helpful to have some specific defined timeframes for resolution, but others have said every case is different. We don't really have a clear picture of what kinds of issues are coming up, how long they typically take to resolve, where the outliers are and so forth. So setting hard deadlines may complicate the issue because it may simply not be even an actor acting in good faith may not be able to meet those deadlines. So that makes it hard to define hard requirements with associated penalties. And Roger, I'll pass it back to you, thanks.



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ROGER CARNEY:

Great, thanks, Emily. And again, point all the input we've seen so far together, this is what we came up with is, if an issue is raised through the TEAC channel, the registrar receiving the communication, again, most likely the gaining registrar there, must provide updates about the status of the resolution to the party who initiated the TEAC contact, no less than every open for suggestions, including specific actions taken to work towards resolution.

I think that this probably isn't the same immediacy as a response to a TEAC contact, but it's definitely something that, if it is an emergency and it's going down the path should be updated fairly regularly. And again, I think we've had the discussion of setting the end time probably kind of hard because every dispute is slightly different, different registrant, different circumstances. I think that it seems more appropriate that we provide bounds on continued contact or continued communication.

And again, I think that I don't want to overburden people that say you have to updates every 24 hours or anything, but there seems to be a realistic number, maybe it's three or five days has to be updated. Again, this is an emergency, maybe it's two days, I don't know. This is an emergency dispute process. Any thoughts? First of all, any thoughts on the possible path? And then secondly, a specific time period of if you support this path forward. Sarah, please go ahead.

SARAH WYLD:

Thank you, this is Sarah. I don't have any better ideas than this possible path forward. It's a complicated thing to try to figure out

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how to write policy around, because like different situ, as you said, different situations take different lengths of time to figure out. And really what we're trying to make a requirement for is that both registrars participate in this process, which is just hard, it's a nebulous thing. It's hard to document.

I think the way we've got it in the possible path box of like providing updates, including specific actions taken, if nothing is actually happening, then the other registrar can go back to ICANN compliance and say, this registrar is not participating, they're not taking action, even like either they're not responding or they're not taking action. But in terms of how regular that needs to be, like, I think I want to sit with that for a while. I want to maybe use every two days as a -- I don't know, to think about, because maybe that's the right duration, maybe it's not, but I think it's a good starting point, thank you.

ROGER CARNEY:

Great, thanks, Sarah. I think it's kind of tough. Again, this is, it should be an emergency use only or urgent use only. I think that taking that too long kind of pulls it out of that scenario. I would say to me, it seems two, like you said, two or three seems reasonable, but again, ideas on that. And why not, and that's kind of what I was trying to get through too, is obviously the response could be, yes, and we're pulling data and we should have that by X. So maybe the first update has nothing, no data to support or anything, but it says we're gathering that data and we should have it by so long, however long that is, which to me is a good progress update. And again, I think that two-to-three-day window seems right to me, but again, I want everybody to throw a time in there.

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Interesting, Rick, the terrible timeframe, but I want to say it, as you progress a progressive, I guess, timeframe. That would be tough. I mean, to me, three days is easier. And again, even if that, that's the we contacted this person or contacting somebody, hear back from them. To me, the goal here is just to keep the two parties engaged in working toward resolution. Again, I am not hearing anybody against this idea. Sarah said, definitely have to think about the actual time period. So please do think about that.

And again, as Sarah mentioned, I would say two or three days seems reasonable. So give that some thought and maybe think, well, or come up with a reason now, maybe that's too short or maybe that's too long. I think we're good in that we can move forward with this, with this set to iron out that time period. Emily, if you want to take us to the next one, please.

EMILY BARABAS:

Emily again from staff. So our next charter question is F5. This is the one that focuses on systems and communications channels. So noting that currently the TEAC can be designated as a telephone number and there isn't necessarily a solid paper trail associated with that. The question is whether there should still be an option to communicate by phone. And also whether an authoritative system of record for TEAC communications is warranted.

So looking at the early written inputs received, we saw some different views on this one. And we've also heard some different views and discussions. So from the written input, the registries supported exploring the possibility of integrating a TEAC-like

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function into the naming services portal, but that the registries are not prepared to recommend eliminating phone communication until they better understand what that would look like.

The registrars did not have a unified position on this one and ultimately suggested that it may make sense to allow each registrar to choose for themselves what kind of, what form of contact they prefer to use. The NCSG suggested that telephone communication might not give enough of a paper trail and that email might be a system of record to use. And the BC noted that the telephone channel appears to remain effective for the initial contact, but perhaps there should be an additional logging mechanism, for example, through a written report to ICANN or email correspondence.

So just going a little bit also into the deliberations of the group so far, there are sort of two minds, I think, around this idea of an authoritative system of record. I think folks recognize that it would be helpful to have a consistent paper trail to draw from for a number of different elements of the enforcing the policy. But at the same time, I think some folks said building out a system of record for something that's not frequently used from what we can tell, would be one, complicated and expensive to build, two, would be complicated and potentially expensive to build systems for registrars around using that new tool and would be a single point of failure if the system went down.

So a number of considerations around that, I think, and noting that it's pretty challenging to request and build new requirements when we have very little data at this point to tell us that there's a real need in terms of volume or severity of issues. I think that that's a

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brief summary of the deliberations to date. And Roger, I'll pass it back to you.

ROGER CARNEY:

Thanks. Great. Thanks, Emily. And this is an interesting one. And I think that, not to put Rick on the spot, but I think he mentioned that, or maybe it was Jim even the key of today's policy of a no response in four hours could trigger an undo. And that puts the registries in a kind of a tough spot because of trying to get the evidence of was it done? How long, and the specifics around that, and if they have to try to contact. So I think thinking about this is important. Obviously the 24 hours probably helps here. I agree, Sarah. I don't think it's the registries' role here to try to gather evidence.

To me, their task is to do an undo if it's required, not necessarily track down anything. So obviously they have to make sure that they're following rules and everything, but not trying to get the evidence. But I think that then, I think the 24 hour may help out, stretch this out a little. And to Emily's point, and I think several of the stakeholder groups mentioned it, with this being used so little, does it make sense to create a system to track it, or is it something that can be more tracked?

And I thought the BC idea was actually a good one, or an email just goes to ICANN that says, hey, or it was CC'd, ICANN has just CC'd on the communication to something simple like that, that allows a third party, we'll say, to be aware of the events occurring and when they're occurring, so that it provides that without

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building a big system, again, for something that gets used so infrequently.

So yes, so the possible path requires registrars provide an email address for the TEAC. And again, maybe to the registrar stakeholder group's point, maybe there's multiple paths here, but require that the time clock starts based on the email, even if there's a phone call made or whatever, the clock actually starts when that email is sent. So, and again, maybe, and something to think about from this group, maybe that is including an email to ICANN as well.

And let me finish this, I guess. First attempt to contact the TEAC must be by email, but can be followed by any other forms. And again, I think the first contact isn't as important as the fact that the clock doesn't start until that email is processed. Good point, Chris. It may help with time zones, because then you get an actual Zulu stamp on it. So Rick, please go ahead.

RICK WILHELM:

I think you're right. Rick Wilhelm, registrar. So overall the possible path looks pretty good here, pretty reasonable. I think that in the spirit of yes, and could also we add into this that ICANN could start pushing the TEACs when they send out the contact updates, when they send out contact info from the registrars, because one of the other things that's challenging operationally is the registries knowing who is the valid TEAC for any particular registrar and having that information up to date. And so if ICANN knows that and it's in the NSP, if they can push that to us when those contact

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updates go out, that would be super helpful to help reduce operational friction. Thank you.

ROGER CARNEY:

Great, thanks, Rick. And as Emma mentioned in chat, thanks for preempting our next charter question too. We'll get into that just a little bit more in the next set of questions. So, nope, that's Rick. Actually, and as Emily mentioned earlier, a lot of these are so intertwined. So, and again, I think this does solve an obvious paper trail issue. And I'm all for keeping a phone contact because it seems to be more immediate, even if it's not, it seems like it's a more immediate option.

But I think the important thing to hear is the email is what's initiating it and moving it forward. Even if there's 10 phone calls or whatever it is, or Facebook chat or whatever it is, that email is the documentation. And again, if ICANN's included in that email, it's not that they have to pay attention to those necessarily, but then they have that evidence at a third party. If an SLA is missed or something like that, then they can have that evidence.

It's not that ICANN would need to do anything with them unless obviously there's an issue. So it seems like there's support for this idea. So I think that we'll take this path going forward. And again, if anybody disagrees, that's what we're looking for. We want that to make sure that we're getting any support on these. Great. Emily, if you want to take us on to Rick's lead in here, we'll go with the next one.

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EMILY BARABAS: Hi, Roger, sure. And so two possibilities here. We can either go on to the next charter question or we can kind of build on what we're seeing, which is some convergence or acceptance of using email as sort of the system of record for the first contact to the TEAC. And maybe we could also then building on what we have as sort of preliminary convergence on this and also the question about regular updates if we want to go back to the metrics question and see what else we can kind of get to on that. So two options here. We continue just along the path we're going or we go back to the first charter question. Thanks.

ROGER CARNEY: Thanks, Emily. and I think that, I think we definitely have the support here for moving this forward as the first, as the trigger for the 24 hours is the email. Let's go ahead and jump into the last one and then we can circle back to the first one. Thanks, Emily.

EMILY BARABAS: Sure thing. So F6 and F7, the way that we're presenting this here is sort of a sub-bullet one as its own thing and then two, three, and four separately. And I think this charter question is one where we haven't had a ton of discussion so far. So this one might make, we don't have a suggested path forward yet for all of this because I think there's some questions that need to be teased out a little bit further. So this is about pain points that registries have identified with respect to issues related to TEAC. And the first one is the one that Rick just mentioned which is this question around registry operators not having access to the designated TEACs for each



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registrar, or at least not readily having available updated information, making, creating more friction for validation.

And then the two bullets, two, three, and four really focus on concerns about this question of the extent to which registry operators should be verifying or validating a due request as they connect to missing that four-hour TEAC window or what will be a 24-hour window potentially. And this question of there may be cases of he said, she said, where the different parties have different accounts of what has happened. And that's sort of the summary of it. So we'll take the first one first which is a little bit more straightforward. So on the issue of outdated contact information, the registries have suggested that ICANN org should include the registrar TEAC in the list of registrar contacts that it regularly supplies to the ROs.

And before we go into the possible path, I might actually ask Rick just for our own information on the staff side so we can document this in the report. Can you just talk a little bit more specifically to the issue with the updates? Is it that registries are exporting TEAC contacts and then have a list sort of somewhere else that they're keeping? And so if they're not referencing the source regularly, they may be looking at an outdated document or database or something, or can you just humor us a little bit and walk through the kind of logistics of the issue just so we make sure we can document that properly? Thanks.

RICK WILHELM:

Sure, here's roughly kind of how it works is best of my recollection. And Carolyn will help me out or Barbara may put me in the back

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channel if I'm messing this up. So registrars are required to keep their TEAC updated in the NSP. And typically, registrars also have an update at the portal that they have at the registry, the registry's private registrar portal with the individual registry operator.

Now, ICANN gives us the TEAC contact when the registrar on boards, but typically ICANN, I believe, only gives the primary contact updates when the registrar changes those contacts at the NSP. ICANN does not include the TEAC among the updates that get distributed.

Now, if the primary contact changes, then the registry could of course use that to reach out to the updated primary contact to go check if the secondary contact, the transfer contact, the TEAC contact, the who likes margaritas contact, the take me out to lunch contact and all the other contacts to make sure all of those get updated and any other contacts that ICANN maintains.

But that has to be done proactively by the registry. We don't get updates of those from ICANN. Does that kind of make sense? So what we're looking at here is for ICANN to include some other TEAC, is the TEAC among that TEAC updates along with the primary contact update. Because right now, if we get a TEAC undo request, the first thing we got to do is go check to make sure that the TEAC contact that we have for registrar X is in fact the accurate TEAC contact at the point in time when the incident is happening. I hope that kind of makes sense.

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EMILY BARABAS: May I ask one more follow-up? So you said when the TEAC is first entered into the NSP, it's then also entered into the portal, the registry portal, right?

RICK WILHELM: Well, we get it. We get it from ICANN.

EMILY BARABAS: And you enter it into your own system. I see.

RICK WILHELM: We scribble it down. We scribble it down somewhere in a database. And then periodically, I think it's like every week or every other week, I don't, we're in my current lanyard. I don't get the spreadsheet myself anymore. I used to get a copy of the spreadsheet. And then, I'm not sure, but it's probably weekly. We get updates from ICANN where every, where it pushes out the current set of contacts, or maybe it's just the set of changes. I really, it works the way it works.

But then what we would like is for any TEAC, for the TEACs to be included in that, because those are kind of critical operationally. What we'd like is for all of the contact updates to be in that. But we, it's mainly, it's that Delta, because then we can update those in our databases. And it's not just my registry. This is going to the, to all the registries. I think they get an update with all the primary contacts, as Barbara is telling me. So that's kind of what we're looking for.

ROGER CARNEY: Great. Thanks, Rick. Volker, please go ahead.

VOLKER GREIMANN: Yes, thank you. I wholeheartedly agree because updating contacts at the registry, even though we've already updated the contact at ICANN, is a pain in the buttocks sometimes. And if that can be made easier for us by ICANN just pushing all the contracts that are required to be provided to a registry by ICANN to the registries, once we are updated within ICANN's portal, that would be a great help and a reduction of workload for our teams. But this is obviously just a general observation, not strictly related to the transfer policy. Thank you.

ROGER CARNEY: Great. Thanks, Volker. Any other comments on that? Emily, please go ahead.

EMILY BARABAS: Thanks, Roger. And at the risk of asking some very ignorant questions. So registries do have access to the naming services portal. But that's not the primary way in which they access the TEAC, is that correct? Just making sure I understand, thanks.

ROGER CARNEY: That's a good question. Rick, please go ahead.

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RICK WILHELM: So the primary way when we access the TEAC is we look at our own systems and because that's the way our stuff is wired into. I don't know for sure that we have access to the registrar's TEAC. I don't have that login. And so I'm pretty sure that we don't have access to the registrar's TEAC in the portal. And so that's sort of kind of one of the, I'm pretty sure that's the case that we don't. So regardless, getting it distributed would be super helpful. Thank you.

ROGER CARNEY: Thanks. So I think the ask here, and I think that, and even from the registrar, not the registry there, tagging onto what Volker said when there's contact updates that that weekly, and I air-quoted it since Rick was not specifically sure about that, but that communication on contact updates from ICANN should include any contact changes on the registrar side to the registry. So, and again, that helps the registry stay in sync and also helps the registrars do less work as well, instead of having to log into every system, every registry system and update them. So Volker, your hand's still up, but I think that's all. I'll go to Emily first. Emily, please go ahead.

EMILY BARABAS: Thanks, Roger. I just had one more question and I know I'm battering you all with questions, but this seems, just in hearing the issue, it seems like sort of a logistics and operational issue more than a potentially a policy one. And I'm wondering the best it seems fairly logical from hearing the issue that there's room for improvement, but I do wonder if this is, it's necessary for this to be

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a policy recommendation, or if it's possible that it could be sort of an operational issue that registries go directly to GDS staff to address. And if that's been tried before, just to understand the right channel for dealing with this one. Thanks.

ROGER CARNEY: Great, thanks, Emily. And I'll let Rick talk to that. Rick, please go ahead.

RICK WILHELM: Thank you, Roger. Yes, this is an operational issue. So your nose is correct. And yes, we have tried to do this. And yes, it used to be provided, but then somewhere someone got a really aggressive interpretation of GDPR and decided that that information could no longer be distributed, even though we use it to do business. And even though that obviously, so like, I just throw them in.

I've been talking about this for years. So this is not just something that we've thought of and we used to get it. And then the GDPR cloud passed in front of the sun and people interpret it and use that as an excuse to build all sorts of walls and that to get in the way of doing work. And so this is, I've tilted at this windmill for many, many, many, many months and many, many times. So if you all can make some progress via this, you'll be not only my hero, but the hero of a bunch of other folks. Thank you.

ROGER CARNEY: Great, thanks, Rick.

EMILY BARABAS: Thanks, Rick.

ROGER CARNEY: Emily, do you want to take us to -- thank you.

EMILY BARABAS: So this is the, I'm sorry about the background noise earlier. It should be done now. This is for the issues two, three, and four. And again, here we have some different points of view. So the registries stated in their early input that these concerns are indeed issues to be addressed. And in working group discussions, registry members have said that any process should work in such a way that the registry operator doesn't need to make a decision or conduct any verification prior to doing an undo related to that timeframe for initial contact.

And that registry should not be liable in cases where they undo a transfer because the TEAC did not respond in time. Registrars noted in their early input that some registrars suggest that the registry should be required to contact both registrars before taking action. And that transfer undo should only occur for TEAC non-compliance when a registry can conclude that the TEAC obligations of the gaining registrar were non-compliant, not in a situation where there's conflicting evidence.

And that the group may benefit from considering requiring the creation of an authoritative communication channel. The NCSG suggested that one possible solution could be requiring registrars

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to copy the registry operators on TEAC communications or an authoritative system as an alternative. And the BC noted that the absence of much data concerning dissatisfaction with this infrequently used procedure would seem to mitigate in favor of little change to the current approach. So for this one, we don't have a recommended path forward. It seems like there's sort of diverging opinions here.

We heard in working group discussions from the registries that they'd really like to see sort of a checklist. And if the checklist is complete or the required items are provided that they go ahead and undo the transfer. Whereas we heard from some registrars that they'd really like to see more checking, well, not all registrars, but some registrars that they would like to see more checking and sort of due diligence and verification done by the registries prior to an undo. So it seems like there's sort of diverging positions here.

So one question that we had in looking at this is, it seems that, so going back to the transfer policy section, 1A64, it says that the registry operator shall undo the transfer if after a transfer has occurred, the registry operator receives one of the notices set forth below. And one of those is 644, documentation provided by the registrar of record prior to the transfer that the gaining registrar has not responded to a message by the TEAC within the timeframe specified in section 1A46.

So a question is, if there was a requirement that there was a paper trail for both the initial contact to the TEAC and the initial response, potentially with the registry copied or provided after the fact, would that sufficiently address the concern here or is there



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more that needs to be discussed with respect to a possible resolution? Thanks.

ROGER CARNEY:

Awesome, thanks, Emily. And I think that, I'm going to answer the question here just in my own, I think that it helps, I think the email, and again, I think that's what we heard when we talked about it was that it helps. I don't think that it resolves it, but I think that some of the suggestions by the different groups here is something that's worthwhile to talk about in the group is we're saying that the TEAC really starts, even if you make a phone call, whatever, the TEAC starts with that email.

And as several groups have suggested, if that's, ICANN is part of that communication and the registry is part of that communication, to me, that takes that, just that email as a mitigating factor to that next step of not only is the email, but a third party is now involved and now all parties are involved, the registry as well. So are those extra steps something we want to recommend and does it solve that problem?

Again, it seems like it becomes more transparent and everybody has more information than they do today, which is generally good. But again, I think that this working group hasn't talked specifically about it. So I think that's important. Obviously, some of the stakeholder groups have talked about it, which is great. I think that input from this group is important here. I know, but we are going to suggest that the contact, the TEAC starts with an email, but being more specific about that email, does that help resolve some of these issues, especially the registry issue of not knowing,

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not having the evidence or not, and not having to go look for it.  
Rick, please go ahead.

RICK WILHELM:

Thanks, Roger. Since I've talked about the registries a couple of times, I thought I'd throw my hand up and get the discussion started. I think that putting a little bit more structure, one, flipping on the presumption that the TEAC initiation mechanism switches from phone to email, that's a good step forward. Secondly, having more entities CC'd on that initial request, including the RO, and perhaps even compliance. I think I heard you say that in there. That also seems good.

And then there might be something, when you say that, if you've got multiple recipients on them, there might be something where there's a form, if you will, or like a series of required fields, not so much that the user is going to be tempted to try and scrape it for automated processing, but just sort of like, the email should contain the following, needs to contain the following, that sort of thing.

And then I think that while it's always going to be difficult for people to say that, well, I didn't get the email, that sort of thing, one of the things is going to be, those TEAC destination emails, probably, and this is expounding a little bit, and maybe going a little bit farther than what we talked about, we should think about those things being, maybe not to a person, but to an inbox, sort of like the way that, in agreements that all of us are party to, there is legal at godaddy.com, that sort of a thing, where it would be TEAC

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at godaddy.com, hypothetically, so that there's less chance of that contact being out of date.

I don't know if that, that might be a bridge too far, but just sitting here thinking about, maybe that's a way, because we were in the registries, we were talking about, well, what if the person doesn't get the email, then they've kind of got an excuse, maybe you can use a generally available destination, like Legal Ad or something like that, a roll account, maybe that would help that, as Sarah said, but that's just a suggestion. I don't know if we can make that policy.

ROGER CARNEY:

Thank you very much, I'll stop there. Great, thanks, Rick. and I think that'd be tough as policy, but I think that's obviously a good idea, especially for the registrars that are big enough, smaller registrars that it is only going to one deal, but I think that makes sense, that it does go to, as you said, a box that most likely has multiple people have access to view it, so, but that's good. And I see in chat some support for including additional contacts in that email as well, so that's good.

I think that, again, not hearing a lot on here, but so few chat and Rick's intervention here, I think that we have a slight path. I think that the fact that we're looking at email as the trigger for the TEAC starts us down a path that helps here and can provide, I think maybe one thing to the registries is, in today's environment, or even in an ideal environment beyond today, but when, or if a TEAC ever comes up and it's asked to be undone, what kind of

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evidence or what is the ask of the registry, typically of the requesters of the rollback?

Is there anything specific that a registry operator says, hey, we need this in order to follow through on this request? And again, I don't know specifically what a registry operator, something to think about. And if a registry operator knows, that would be great. Rick, please go ahead.

RICK WILHELM:

It's very situationally dependent, I would say. When a rollback is, when the registry is one, the registry, whoever they are, really don't like to be in a position of having to do the rollback, because it's so clear that it needs to be a rollback, then the rollback should be done by the formerly, the currently gaining registrar, and they should just revert it. Because the problem that we have with rollbacks is really the L word of liability.

And so, when we're put in that kind of a spot, we really look hard at doing, before we do a rollback, if it's a judgment case. If we've got to do a unilateral rollback due to non-response, then that's one thing. But if we're in there doing a rollback, we really try to avoid that if we can. And so, I'd have to dig up specific instances before getting into it, but really don't want to get in that spot. It's bad for everybody involved. The registrars on both ends and the actual and alleged registrants I would offer.

ROGER CARNEY:

Great, thanks, Rick. Thanks. Volker, please go ahead.

VOLKER GREIMANN: Just as a comment on that. Looking at current practice for rollbacks and undo's of transfers, the L word is, there's plenty of the L word going around, so to speak. The gaining registrar will want an indemnification from the losing registrar to avoid the L word on their end. And the losing registrar is in many cases reluctant to provide that indemnification because of the L word. They don't want to be liable to the gaining registrar for a customer that they might never be able to get on the hook for a payment of whatever might follow from that. So just relying on the registrars to make it out on themselves because of the L word being hard on the registries, there's a lot, plenty of that going around for all parties here.

ROGER CARNEY: Great, thanks, Volker. And again, when we're looking at this holistically, I think when we talk about extending the timeframe from four to 24 hours, I think that's going to help a lot. And then also, initiating this via email does provide that instant paper trail. And again, if the contacts are there that, yes, you copy the R.O or you copy ICANN, both of those people, I think that that expands that and makes it that much more evidence-based and data-based as you go through decision-making here. And if we require that, even after that, that there's constant communication between the parties, I think all those things, when you look at it as a whole, start solving these problems a lot easier. So I think we're going down the right path and I think we're getting there.

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I think that if we can get to the email, be in the contact and include other recipients on it, it's going to solve a lot of those. And again, I don't want to over-design this, again, because as many stakeholder groups have mentioned, it doesn't get used a lot, but it is an important use when it does get used. I think we talked through F6, F7 for that. Emily, what was next? Was that the end of that? Emily, please go ahead.

EMILY BARABAS:

Thanks, Roger. I think what we'll do is maybe it's worth just briefly going over the data points in light of these conversations we've had that some groups have suggested, so people can start to chew on that a little bit between now and our next call. And then perhaps we can take a couple of minutes to go over any feedback on this approach and also just make sure we're all in agreement about next steps. Does that sound?

ROGER CARNEY:

Yeah, and before I let you go back to number one, I want everybody to think about what we just went through today. And again, that was one of the things, Emily, and I started with, is this a good approach to walk through these things? When we hit TDPR, do we want to do something similar to this, lay it out like this, and it provides us a nice clean document to go through? Is this useful? I don't need an answer now, but we'll jump back to one. And I just want everybody to think about that so they can provide that feedback by the end of the call. So Emily, if you want to take this back up.

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EMILY BARABAS: Sure, Roger, thanks. So let me just share. This is the TEAC working document. Sorry, let me just share that link with you all. And in that working document, you'll see the early input from all the groups on these charter questions. So you can all reference this again soon, but the Registry Stakeholder Groups said the following data points regarding the TEAC would be useful. Frequency of the exercise, both absolute quantities and relative to number of transfers, types of mechanisms that are used before using the TEAC, types of situations that cause the TEAC contact, frequency of any issues, the frequency of TEAC exercise issues. That's issues related to use of the TEAC. The types of situations that typically surround those issues and situations where the usage has been involved in a fraudulent transfer. So abuse of the TEAC.

The NCSG noted that getting metrics around response time, quality of response and percentage of, it's a solitude, I think that's about cases resolved would be useful. And the BC noted frequency that it's being used, how often and under what circumstances it's been abused or gamed, current modes of contact and whether those are satisfactory and the timeframe for response and default transfer as a result of non-response have been satisfactory. I think some of those are a bit more qualitative in terms of judging the quality of the outcome and so far.

So anyway, if folks could start to think about that, and perhaps that's something that we can discuss on the next call further, obviously there's going to be a trade-off here between more data points are potentially useful for policymaking. What is the lift of

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gathering this information given that some of it can't necessarily be automated in any way. So it would require some tracking by a human. So hopefully folks can think about that some more and think about some of those trade-offs for further discussion, thanks.

ROGER CARNEY:

Great, thanks Emily, interesting Terri. The misuse and it's interesting again we get back to this, the thought that the TEAC doesn't get used often to begin with. So when this comes up for review again, how many TEACs are going to have, and maybe if it's used more appropriately, maybe it will get used more, so I don't know, but it's interesting. I don't know, but the difficult part is, and some of these suggestions, it's like as a percentage of transfers, we know that that's going to be a small percent.

I'm not sure that that's real useful for a lot of people, but the number, and I think that even what we've discussed, the process, if we're emailing it, and if we include the RO in ICANN, and again, I don't know who at ICANN gets it, whatever that is, but this starts automatically creating some of these points that just need to be pulled together then.

If it's always by an email, then we've eliminated that problem of, it can be initiated by different contacts. You can still contact them in different ways, but the TEAC really doesn't start, but on that email. And then that process of starting the clock and everything is now more systemic, so it can be followed a lot easier. But there's a lot in here, so I think that this is important. Emily, there was a section in our working document here that we did discuss a few of the items, is that right? Oh, there we go.



EMILY BARABAS: So this is the sort of mustard brownish yellow is the early inputs themselves, and the deliberations are summarized below. I don't think that there was a lot of discussion yet about specific metrics, but we can pick up on that.

ROGER CARNEY: Great. and again, I think some of the suggestions are a little squishy, so with this occurring, even if it occurs 4,000% more, you're talking about a couple of them a year now. I think that we have to put that in perspective of what to collect and how detailed to get. As Emily mentioned, it's great to have data, but it's the cost of gathering, and it's like on something that's used limited, that cost starts to outweigh its usefulness.

I think obviously some of the numbers are great, how many are initiated, how long they take, responses to them. And again, I think we're setting that path through our recommendations that we're making, that it's by email and you have to communicate every so often you start to be able to do that and pull those data points out without actually having to go very far. So we've got about five minutes to go. Emily, please go ahead.

EMILY BARABAS: Thanks, Roger. So if we can, in just the last couple of minutes, maybe we can just kind of validate the approach and also our next steps, if that's with you.

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ROGER CARNEY: That is great, thank you.

EMILY BARABAS: So first, we're certainly interested in hearing if this approach is something we can carry forward for the TDRP charter questions, or if people feel like it's problematic in any way, we want that feedback too. So feel free to weigh in here or also on the mailing list. And then in terms of next steps, do we already feel that we're ready to, certainly no decision is going to be made on a single call, but based on the feedback received on this call, it sounds like there's general support for the people on this call for using these suggested paths forward, at least as a basis for moving forward. So is it timely for staff to start drafting response, draft responses to the charter questions and possible preliminary recommendations for the group to respond to, or do we need more time before we do that? Thanks.

ROGER CARNEY: Great, thanks, Emily. And I think that that's important. We go through this and thanks Rick for mentioning the approach is good. It does lay it out and it's clean. Obviously, the past few weeks, we've done a lot of talking and discussing and it's great. And that's how we get to this spot. But now's the time to turn that discussion into some action. And this is kind of what we came up with is moving us to that action stage and hopefully it works as Emily said. And if it doesn't, I think that's just as important so that we can make any changes to it.

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But our thought would be, we would take this similar approach with the TDRP stuff, unless it doesn't work for somebody. And to Emily's second point on, thanks Sarah. We seem to get pretty good support on the path forward. I think, unless anyone has some specific issues or general across those, I think staff can take those and run with them and start answering our charter questions and drafting some preliminary recommendations using those paths forward.

Again, unless someone sees a problem with those. And again, maybe a problem with one or maybe a problem with all. So please let us know. Otherwise, I think that that's the next step for us is to take that and start driving some preliminary recommendations out of it for the charter questions. Great. Emily, was there anything else we needed to cover today?

EMILY BARABAS: I think that's it. I think we have our instructions. So thanks everyone for humoring us with a new approach and I think we can close the call. Thanks.

ROGER CARNEY: Great, thanks, Emily. Thanks everybody. We'll talk to everyone next week and a great discussion today. And I think we'll start seeing all of our fruitful discussions turn into some good action here. So thanks and we'll talk to everybody next week.

DEVAN REED: Thank you all for joining. Have a wonderful rest of your day.

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