
ICANN Transcription

Transfer Policy Review PDP WG

Tuesday, 25 July 2023 at 16:00 UTC

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JULIE BISLAND:

All right, well, good morning, good afternoon, good evening, everyone. Welcome to the Transfer Policy Review PDP Working Group Call taking place on Tuesday, the 25th of July, 2023. For today's call, we have apologies from Sarah Wyld (RrSG), and Rick Wilhelm, (RySG). They formally assigned Jothan Frakes (RrSG), and Carolyn Mitchell (RySG), as their alternates for this call and for remaining days of absence. As a reminder, an alternate assignment must be formalized by way of a Google assignment form. The link is available in all meeting invite emails.

Statements of interest must be kept up to date. Does anyone have any updates to share? If so, please raise your hand or speak up now. All members and alternates will be promoted to panelists. Observers will remain as an attendee and will have access to view chat only. Please remember to state your name before speaking for the transcription. As a reminder, those who take part in the

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ICANN multi-stakeholder process are to comply with the expected standards of behavior. Thank you. Over to our chair, Roger Carney. Please begin, Roger.

ROGER CARNEY:

Thanks, Julie. Welcome, everyone. I guess, welcome back. We've had a slight break from last week. Welcome back to everyone and welcome to a few of the new people. I see that we've got some alternates now that are members and a few new members. That's great to see. We've done a lot of work at this point, but there's still quite a bit of work to get through. All the help is definitely appreciated.

I don't have anything big as far as chair updates today. Just a reminder that we do plan on continuing our work through August for those that will be able to attend. Other than that, I think I'll just open the floor up to any of the stakeholder groups that have any comments or questions or side discussions that they've been having that they want to bring forward to the team to evaluate or try to answer. I'll open the floor up to any of the stakeholder groups. Steve, please go ahead.

STEVE CROCKER:

Thank you. Just a very mild comment. Some of you may recall that when this working group started, I raised the issue of smooth transfer, glitch-free transfer of working DNS zones, particularly signed zones as part of the transfer process. After a bit of discussion, the working group said this is not part of what you

wanted to focus on, which was fine. So I simply wanted to share a little bit of an update from where I've been sitting in SSAC.

We've been working on DS automation and have a report nearing completion. And we will do further work on multi-signer protocols. Those are related to and provide the technical support for glitch-free transfer.

In the draft report that we have prepared, there's a brief mention of future work in glitch-free transfer. When I've coordinated that internally, I will send that wording over to you guys just as a pre-alert. And then I expect that we'll probably do briefings more broadly to various constituencies as that report comes about. So just something to look forward to down the line, the issue of how to transfer DNS automation in parallel with the transfer of registration is a topic that I think is going to need attention eventually. Thank you.

ROGER CARNEY:

Great. Thanks, Steve. And I'll just throw on to your enlightenment there that I do still see quite a bit of activity in the IETF on DS keys and things like that. So it does seem like it's still progressing well and people are staying involved with it. So that's good to see. Thanks for that. Okay. Anyone else have anything? Okay. Well, great. I think we'll go ahead and jump into our -- let me read Steinar's note real quick. Okay. Great. Thanks, Steinar, for that update. In chat. Thanks.

Okay. I think we'll go ahead and jump into our agenda then. And I think maybe Caitlin, if her computer is cooperating with her, will

take us through a recap and where we stand on the discussion around the bulk transfers and fees specifically. So Caitlin?

CAITLIN TUBERGEN: Thank you, Roger. Hopefully my computer will cooperate. Apologies if there's any lag today. So for those of you who may have missed the last call, as a reminder, we've moved into the part of what was previously called phase two or the group two topics and we're dealing with ICANN approved transfers. So these are transfers that occur without the express consent of the registrant.

And the first charter question the group is dealing with is part of section 1B2 of the policy. And the relevant language is included below. We're specifically looking at the bolded sentence at the end, which notes that if the transfer involves registrations of more than 50,000 names, registry operator will charge the gaining registrar a one-time flat fee of \$50,000. And as a reminder, question I1 noted some of the challenges that ICANN Org has faced in the past when it comes to an involuntary transfer. So for example, when a registrar is involuntarily terminated and is uncooperative, asking a gaining registrar to take that portfolio of names that are unknown to the registrar, and if the data is behind a privacy proxy or now that a lot of data is redacted, the gaining registrar may be taking on a risk or an unknown. And ICANN Org colleagues had noted that charging a gaining registrar to take on an unknown portfolio of names has proved challenging. We talked about that in detail the last two calls. So I encourage anyone who may have missed those calls to go back and listen to those recordings.

So this slide shows the recap of some of the overarching themes that we discussed last week, and I just wanted to confirm that leadership has captured these correctly. So if anyone disagrees, please feel free to raise your hand. I would mention that, of course, we still are early in the discussion, so nothing has been set in stone, and opinions and interventions on that policy language are welcome. But in short, it seemed that the majority of the working group seemed to agree during the last call that in the event there is an involuntary termination where a bulk transfer is involved, that mandatory bulk transfer fee should be waived just to ensure that the registrants that are using that terminating registrar or uncooperative registrar or failing registrar will have a new home and there wouldn't be any sort of disincentive for a gaining registrar to take on those customers by having to pay a fee.

In terms of the mandatory bulk transfer in a voluntary setting, so for example, if a registrar is acquired or a registrar voluntarily terminates and is working with another gaining registrar, the working group didn't agree what should happen to that fee, and so we're going to tease those questions out further today. But some of the examples or ideas that came up were perhaps the mandatory fee shouldn't be subject to policy, that should be left between registries and registrars through their registry-registrar agreements and not baked in policy. I will note just for reference that I think that \$50,000 fee has been around for a long time, possibly pre-2008, 2009. Generally speaking, folks have agreed that maybe putting in specific numbers into a policy that takes a long time to change through the policy development process may not be ideal, but of course we can still discuss that.

Another idea that was floated was that maybe the fee should be tiered based on the volume of domain names rather than one lump sum that hinges upon a \$50,000 or more portfolio. I think some members think the language should just remain as is, and then we have the option here to discuss any other ideas that may come up in the course of discussion. I think for example, with perhaps a cost recovery for registries.

And then the last overarching theme is that the section in B2 is a little, or the language in B2 is a bit clunky and confusing, and it would be helpful to maybe take a look at that and make it a little bit more user-friendly in terms of what it means, because even registrars that deal with bulk transfers regularly are a little bit confused as to what it means and what scenarios are covered.

In the yellow box on the bottom, we have a very, very preliminary proposed agreement for the working group to discuss, and that is specifically around waiving the mandatory fee in the event that there's an involuntary registrar termination and a bulk transfer needs to occur to move the names from the involuntarily terminating registrar to another gaining registrar. So if anyone thinks that this doesn't properly capture what the working group discussed last week, we can open up the floor and I will turn it back to Roger to manage the queue.

ROGER CARNEY:

Great, thanks, Caitlin. Yeah, and I think as I read through this, it did seem to hit on what we've talked about, I think over the last couple of calls. So I think that we're in a good spot to start

discussing how the outcomes here. So I think that's good. Steve, please go ahead.

STEVE CROCKER: Has anybody discussed the gaming of this? If I have a large number to transfer, I might break it up into pieces of 49,000 apiece and transfer them without incurring a cost.

ROGER CARNEY: Yeah, Steve, I think that's obviously something that could happen. The issue here, and I think that's kind of where the last couple of weeks we started drawing lines is an involuntary transfer, meaning the registrar is going out of business or Compliance is shutting them down, whatever reason, they're involuntarily exiting. And they basically don't have control over that. But to your point, and it's something we're going to discuss later, is partial portfolio transfers and things like that. Right here, we're talking about full portfolio transfers. So at this point, we wouldn't worry about it. But yeah, I think you're right. I think when we start talking about that, you had to look at that. And I think that's kind of how the tiered idea kind of fed in as well. So thanks, Steve. And Owen, please go ahead.

OWEN SMIGELSKI: Thanks, Roger. So I'm just following along this appears to be where we've got something where ICANN compliance has done a notice of breach and the registrar hasn't responded or for whatever reason, and they're going to termination. You know, so that I would consider an involuntary registrar termination. But

there are sometimes voluntary terminations, where a registrar will say in response to a notice of breach, hey, you know what, we don't want to be a registrar anymore. We'd like to become a reseller of another registrar. And so it can still go through that compliance process, but I don't consider that to be an involuntary registrar termination, because they've voluntarily decided to terminate. So I just want to make sure that we've got some guidelines or guardrails around that to make sure that we're truly only doing the time where the registrar just up and disappears as opposed to continuing to being an ongoing entity. Thanks.

ROGER CARNEY:

Great. Thanks, Owen. Yeah. And I think we need to be clear there because, you just described one, but the other thought I had was a registrar stopped supporting a specific TLD and doesn't want to carry those names anymore. And again there's several combinations like that, where it's, as you mentioned, more voluntary action than it is involuntary. We need to be clear, especially when we're talking about this fee and the overwriting of it. So, Theo, please go ahead.

THEO GEURTS:

Yeah, thanks. So for the last few weeks, I've been sort of struggling with the terminology here about bulk transfers. And let's touch upon the non-voluntary termination here a little bit. Because if that happens, from the registry perspective, there is no transfer there. I mean, they make a modification in a database and they switch from the terminated registrar to the assigned registrar. So

that is a modification of the database where the domain name switch to a different registrar.

On the registrar point of view, you're not transferring anything. What you're doing is, as soon as you get the get-go from the registry, like, okay, we're done with the modification on our end, then you start importing all the domain names into your database, including all the registration data. Like when the domain name expires, there is no renewal there to be taken care of. And that is basically what you're doing on the registrar side.

So like I said, I've been struggling with the word bulk transfer, while basically we are talking about modifications to the database basis. And I wonder if we keep using this, and maybe I am just seeking problems where there are none, but I'm sort of wondering if it's not going to bite us at some point, or if it's going to backfire when we are approaching a final report or final draft here when we talk about bulk transfers. Thanks.

ROGER CARNEY:

That's interesting, Theo. And I think that's something to think about, and maybe even give some time to noodle on that and think what is a better terminology? It's definitely different than a single registrant choice making this, and this is not a registrant choice here. None of these bulk transfers here we're discussing are by the registrant's choice. It's some other entity making that choice for them. So yeah, I think that we can obviously improve on maybe some of the terminology there and being more clear. So, but yeah, give it some thought and see what fits. And again throw

something out and let's discuss it and see if it works or not. So, okay. Any other comments on here?

Okay. I think that, again, I didn't hear anybody disagree with what's written up here. We had some good discussions on other things, but it sounds like staff has documented at least the path that it seems everybody's looking at now. So Steinar, please go ahead.

STEINAR GROTTEROD: Since I'm representing At-Large, I don't have any particular view on this, but I'm kind of curious because all those who are vocal on this discussion is the registrar side, but it's actually the registries that kind of lose the \$50,000 in these scenarios. Are they willing to take that burden? I'm just wondering where the registry operators are. Thank you.

ROGER CARNEY: Great. Thanks Steinar. And thanks for that. And I kind of tried to tease that out at our last meeting a couple of weeks ago, just to see if the registries had any point of view. And again, I think one thing to take into account here is when we're specifically talking about involuntary, it happens really infrequently. So it's obviously not something that the registries are looking to as a business plan or anything for sure. But obviously they have costs when this does occur. So it does beg that question, Steinar, is making sure the registries are comfortable with it. And if not, obviously they should let us know and see if there's any solutions around that.

Okay. I think we're in a good spot here. Again, if no one has any issues, and as Caitlin pointed out in chat there, a doc will be opened up for this and we can put comments in there and continue discussions in there. Obviously we don't have to go through everything right here at this time. So, okay. Caitlin, what was the next item here?

CAITLIN TUBERGEN: Thanks Roger. I was just going to respond quickly to Steinar's comment. We went over some numbers during our last meeting two weeks ago. And in terms of the amount of involuntary transfers that had 50,000 names or more, over the period of the last five years, there were only two of them. But that being said, of course, those are customers that did need a new home and we had two uncooperative registrars. And so it's not a frequent scenario as Roger just noted, but it is something that needs to be accounted for because it does happen. And obviously the protection of the registrants is important in those types of scenarios.

So as we noted at the top of the call, the \$50,000 language around that fee is also for voluntary bulk transfers. So that would happen when, as Owen noted, a registrar may voluntarily terminate their RAA. And in many of those scenarios, they have worked out or they have reached out to another registrar that will take on those names and they are cooperating with that registrar. So providing the necessary data and making that as smooth as possible. In a lot of those scenarios, the voluntarily terminating registrar is already in communication with its customers so that the customer knows this is happening and knows who to contact if

there's an issue. And so in a voluntary setting, the question is, should there still be that \$50,000 fee noted in the policy as a prescriptive number? Should it be removed and again be ultimately between the registry and the registrar about if there is going to be a fee, how much that would be and what the rules around that would be?

And so we have some questions here to get the group thinking about it. But as noted at the top of the call, the options could be removal of any or removal of any mention of a fee. And again, left between contracted parties to handle amongst themselves. It could be that the fee has changed and tiered and that the tiering is noted in policy. It could be that there could be a cost recovery option. There could be a ceiling for the fee. Anyway, what we're going through on the next couple of slides is trying to figure out what the working groups initial thoughts are on how that should be handled. So we have some questions to tease that out for the group to think about. As noted two weeks ago, some of the folks that have been involved in this space for a really long time seem to remember that the placement of the fee in policy was to dissuade overuse of bulk transfers. So there was supposed to be some sort of fee involved so that transfers that don't involve the registrant's explicit consent was dissuaded.

And the questions that we have on the side that we can go over are because the payment is ultimately between the registrar and registry operator, ICANN does not remit the payment. ICANN does not even deal with the payment at all between these two parties. It's just noted in policy, which is why we're discussing it. Is it appropriate to even have the mention of a fee here? Would

removal of the \$50,000 number allow more flexibility between the contracted parties? If there's no specific fee, would it be helpful to mention a price ceiling so that it couldn't be abused? Or could a cost recovery option for the registry rather than a flat fee be considered? So, Roger, I'll turn it over to you to see if anyone has any initial thoughts on this about potentially just removing the fee from the policy and putting it between the contracted parties to negotiate.

ROGER CARNEY:

Great. Thanks, Caitlin. And again, I think as several people have mentioned, let's be clear on the lines here. The previous slide, we were talking about involuntary move of registrations from one registrar to another, and the group seemed to be supportive of no fee in that scenario. Now we're talking about more of a voluntary scenario where a registrar is, for whatever reason, wholeheartedly, again, I think we need to separate this. This would be a whole portfolio move again. Is there a fee? And then I think, obviously, there's that next step of, okay, is it a partial portfolio? And then even beyond that, as Theo has mentioned multiple times over the years of this, maybe it's just a simple reseller moving from one registrar to another. So it's, again, just a partial portfolio of that. But here I think let's focus on the full portfolio being transferred to another registrar. And should, and I think it's a valid point, should a number be here mentioned in policy when ICANN really doesn't have any handle in that? Obviously, it still allows for some bit of control. So like Caitlin just mentioned, there wasn't abuse or anything, but it's one of those

where it's like, does it really belong in policy? So let's go from there. Theo, please go ahead.

THEO GEURTS:

Yeah, so this is Theo for the record. So a couple of pointers, observations. When I read these part about an issue of overuse, I really wonder where that came from, how that was decided on, because I already questioned it from multiple angles and multiple levels, because I don't agree with that, but also don't know the rationale behind it or if it was even fact-based or what kind of problem we were trying to solve back then, which appears to be two decades ago, maybe a little bit shorter, but times have changed. So I'm not too strong on that first bullet point.

Then when we talk about the payment of the fee between the registrars and the registries and sort of let those guys figure it out themselves, I'm not in favor of that, because I always feel when those discussion, when it comes about fees, it always depends on which registry operator you're dealing with. I mean, you got good ones and you got not so good ones. And so there's always this tension there with some guys you can get along fine, you can set up a deal really quick, and with others, nothing can be done and you hear outrageous prices or you can't get anything done on some very simple stuff. So I don't want to go too deep into detail there, but I don't think that's a great choice there. So, and on the other points, it's all up for discussion and a cost recovery option last bullet point I've said a million times before. Thanks.

ROGER CARNEY: Great. Thanks, Theo. Jim, please go ahead.

JIM GALVIN: Thanks, Roger. Jim Galvin, Registries Stakeholder Group for the record. Seeing this and thinking about this and listening to the discussion here and the color, and I want to take a bit of a step back and just make a comment here for consideration. I have to admit, I agree with Theo and the notion that the bulk registration and the fee was added to help mitigate overuse seems odd. I can't quite, even in my own mind, put that together, how all of that works.

So I'm kind of taking a step back here and thinking about this. And what I'm wondering is coming at this from the point of view of an overarching principle, rather than thinking about this in terms of scenarios, the two obvious scenarios are voluntary versus involuntary. But then when you look inside each of those, it just becomes in the involuntary case, you've got ICANN initiated or registry initiated. You know, in the voluntary case, you have, again a registrar doing it. It might be something the registry is trying to organize. I mean, who knows? And then, of course, the registrar is always a potential initiator of any of these things. Why not come at this from the point of view that acknowledging that there's work involved for everyone here who participates. So a registry has a job when there's a bulk transfer and the registrars have a job. I mean, we all have work to do. And to some extent, I think we could probably agree that we all want to get paid for the work that we do. So the question is if there's going to be a fee, who should pay it?

And I'm thinking, why not say that the fee will be paid by whoever is motivating the bulk transfer, whether that's the registrar, because they're selling voluntarily. So the gaining registrar would pay the registry because it's your accreditation has gone bad in that sense. And in fact, I'm going to suggest that even ICANN, if it's an ICANN accreditation failure or some other breach that ICANN is dealing with, they want to make the transfer happen. You know, why wouldn't they pay a fee to both the registrar and the registry for effecting the transfer? Just a thought.

And then as a separate discussion, we can then have a discussion about what should that fee look like? You know, it doesn't have to be a single flat fee. Maybe it is a tiered fee of some sort. And we can have some discussion about what kind of thing makes sense. And then it doesn't really matter who's initiating it. The fee is just paid by whoever's initiating it in whatever the scenario is. And you know, that's just something to think about. Thanks.

ROGER CARNEY: Great. Thanks, Jim. Theo, please go ahead.

THEO GEURTS: Yeah. So those are great comments there. You know, and in my mind, when we talk about cost recovery option for registries, rather than a flat fee, to explore that further, that basically sort of, in my mind, it was always clear that the requesting party or the initiating party, the registrar that starts this process would cover up the flat fee for whatever that registry sort of comes along with, a

price tag they consider it to be a flat fee. As Jim mentioned, everybody needs to get paid. Everybody wants to have bread on their breakfast plate, so to speak. So that sounds logical to me.

What I found interesting about the comments there is when we are talking about a non-voluntary transfer that sort of, there is a recovery fee for the registrar involved and the registry involved. And we were already discussing a couple of weeks ago that it's hard to find a registrar to take on some of these portfolios. And you know, if they can at least sort of bill the workable hours to ICANN, I think that would be sort of, well, it doesn't solve the problem, but at least it makes it more okay, we're doing it, at least we can get some money back. So it's a little bit easier to swallow. Thanks.

ROGER CARNEY:

Great. Thanks, Theo. Yeah. And I think when you look at it, and thanks for that, Jim, to spur that a bit. When you look at the two basic scenarios of being voluntary or non-voluntary, as Theo says, I think that you're talking about two extremely different scenarios in that one is a business decision, the voluntary things are business decisions someone's making. And involuntary action is more of an ecosystem kind of thing where it's better for the entire ecosystem that that continues. So I think that that's, to me, that's how I have always viewed it. So it's as Jim mentioned where does the dollars come from? Because there's always work to be done no matter what you look at. You know, I don't really think I've thought about that besides what Theo said is I always thought that whoever initiated it would be paying for it. So it's one of those. And to Jim's point, who initiates an involuntary thing? It's hard to say

that ICANN is initiating it. You can say that just because they're following our policies that we've provided. But really the initiator was the person or registrar that's going out of business and you're not going to get funds from them, most likely. So I think that that one's an interesting one. And again, definitely worthwhile to discuss. But as Theo mentioned, I think whoever initiates, to me anyway, I always thought that that's who would pay for it. You know, if it's the registrar buying another registrar or registrar just wanting to get out of business, however it works, to me that those registrars that would be initiating that would be paying for it. So, but to Jim's point obviously no matter what scenario you're in, registry and registrars are going to have to do some work to make this happen. So Jim, please go ahead.

JIM GALVIN:

Yeah, thanks, Roger. So let me say again what I said a little bit differently in one sentence. You know, I was just sort of thinking in the large about we're sort of going down this path here of trying to lay out scenarios and then lay out principles and rules about all the scenarios. And I'm thinking, it just felt like a much more concise way to think about this was a single principle about, yes, there's a fee. The fee is paid by whoever is initiating it. But maybe based on what you're saying there, Roger, listening to you and Theo commenting here, maybe it really isn't fair for ICANN to pay a fee if they initiate it because maybe you're right. You know, that's an exception case. You know, we're all benefiting by ICANN having noticed this problem and wanting to make things move around. So maybe the registry and the registrar, I don't know, I'm just sort of offering some comments at large here at the moment.

You know, we all bear the burden of our own costs in that kind of situation. But if it's not ICANN initiated, then you have this principle of, yeah, whoever's initiating it, they pay the fee. And then we just get to have a discussion about what that fee should look like and how to manage that. I mean, I think that's something that we could bring to a broader discussion among registries. And that seems pretty reasonable and logical to me. We'd have to see what the broader community thinks. But yeah, make ICANN an exception out of the principle that applies to the rest of us. Thanks.

ROGER CARNEY:

Great. Thanks, Jim. And again, I'm not a big accounting person or anything, and I don't know if it makes sense to go along with what Jim was saying earlier, even that, yeah, you do charge, even an involuntary scenario, you charge the registrar that's going out of business. And again, you're not going to probably get that money. But you know, I don't know if accounting, business, whatever you call it, makes sense that those fees can be written off and blah, blah, blah. I don't know any of that details, but maybe that's a possibility some people are thinking about. And again, if you charge them, you know you're probably not going to get it. But at least I still can filter down and you can write things off and things like that. So I don't know, Jim. I think, again, maybe there's possibilities that you can stick with that flavor. But ICANN paying for it, I agree. I think that just seems wrong that we're putting them into the enforcement or the identification as you said. They identified something that is wrong by policy that this community wrote and that they should have to pay for that. So I think that to me that doesn't seem right, but I'm not saying it's right, wrong or

not. So, okay. I think that's good. I think that it's a good delineation. Again, I think Jim got us back to where I think the last slide showed us. Again, people thinking about who's paying for it. That's fine. Maybe the involuntary one is an exception and we just move on from there.

I think that next logical discussion—and Theo kind of led us into that a little bit is, does it belong in policy or not? And I think that when Theo brought up, it's tough because again, that business relationship between some registrars and some registries fluctuate pretty dramatically. And I don't think you want to look at this as getting into any discussions of favorability or anything like that. So if it's not in policy, you may run into that. And again, obviously then they have their own issues to deal with, but if that can be resolved in policy, maybe that makes more sense. And even cost recovery to me gets a little iffy because I don't know—you can build a lot into cost recovery versus just an agreed upon fee.

Okay. Any other comments here? Again, I think that the idea is how do we get from, okay, if it's voluntary portfolio move, it sounds like there should be some language in the policy, how specific it is. I think the group needs to decide how specific they want that. And you know, is it just a flat fee based on volume, based on, I don't even know what else you'd do it on, but a number of backend providers. I don't know, because a registrar portfolio move could be one service provider, one backend provider. Or today, theoretically it could be a couple hundred different ones. So I think that that complexity and issue has to be dealt with somehow.

Okay. No other comments on fees or not? Again, it sounds like that the voluntary does make sense to include a fee. And as Jim

and Theo both mentioned it probably should be paid by the initiating party, most likely initiating registrar in that case. So I think that beyond that, it's, what does that look like? And again, how much language do we include? So I think that's things to think about and start coming together on something. Again, is it a flat fee as it is today, just a cliff one side or another? Is it tiered? Is it as Theo mentioned, maybe cost recovery? And is there a limit on that cost recovery?

And something else we talked about over the last two meetings was backend providers that have families of TLDs, is there a difference there or is it still specifically tailored to a specific TLD? So I think that obviously there's a lot of those variables that come in that have to be accounted for.

Okay. So I think if someone can think about—and maybe Theo can think about cost recovery, how that looks and is there a maximum to a cost recovery scenario? Or is it someone else maybe thinking the tier system is better and maybe something like that. So Theo, please go ahead.

THEO GEURTS:

Yes. So my feeling when you're talking about a tier priced approach is that we don't really know if that is reasonable for which registry operator. I mean, for Verisign, I assume, yes, this will work. But for a very small TLD, for a very small registry operator, that could mean that they need to hire people and that can add up really quickly. I mean, some of these contractors are extremely expensive. And it also depends how complex your platform is. I mean, if it's written in PHP or Java enterprise, those

are completely two different worlds there. So that's why I always went for the cost price, because it will be differently from registry operator to registry operator. I mean, the Dutch registry asks 50 euros, while the neighboring country, Belgium, that registry, ccTLD registry operator for the same procedure charges you 500.

So while we are talking about the same process, we might be talking a completely different execution with all kinds of random factors or other dependencies we have no knowledge of. So you can't really tell if a tier based system is the right approach.

Well, a cost price, well, I'll agree. What is a cost price and what's reasonable, it's hard to sort of measure that and to sort of codify that into a contract or a policy, if you will. But it is something you can sort of agree with a registry operator, okay, in your case, it's going to be X amount and then another registry operator is going to be that kind of amount. And if you feel that is being gamed by a registry operator, yeah, I think then it should be an option to report to ICANN Compliance so they can drill down to see like, okay, was that cost price which was initially mentioned during that negotiation even realistic? I mean, if it's \$1 million I think a registry operator will have a hard time to explain that to anybody. But you know, that is sort of my thinking around this. Thanks.

ROGER CARNEY:

Great. Thanks, Theo. Yeah, I think it's interesting because I mean, once you talk about—and as you're talking about by volume here, obviously, there's an economy of scale where transferring 1000 names technically isn't much harder or much easier than 10,000 names however you want to say that, 100,000 names. But

obviously, there's processes around those two that will increase. But you know, again, not linear. So it's one of those where 10,000 isn't 10 times the amount of effort it is for 1000. So when you start talking about those tiers, and as Theo mentions the recovery process, I think that obviously, you see that scale, and you should take that into account. But yeah, I think I'll go to Catherine, please.

CATHERINE MERDINGER: Thanks. I think Theo and Steve in the chat kind of hit on what I was thinking as well. Doing a cost recovery kind of makes me nervous. Because it causes registrars not to know what to expect. Right? Like if Identity Digital didn't invest in some kind of system that would make it easier, and now they don't have an incentive to, then, their price might be crazy high. And if I go to GoDaddy registry, it might not be. Like it might be a lot lower. And so I have concerns around that. I also have concerns, as Theo highlighted, like, who's checking this? And how are they checking it? How do you challenge, "I don't think this is an actual reasonable fee?" And I also I worry about the disincentivizing registries to make this process more efficient and easier. Because if they can say, well, no, our process is very complex, that's why it costs this much money. I just think, I don't know, I think then they get dollars they didn't have before. And then it's a revenue stream. And how do you turn that off?

And so I think having a set fee of saying, this is what we think is reasonable for this type of work. I think there's also problems with that. Like obviously, that's not a perfect system. I'm also concerned about the tiered pricing, because as Roger said, I don't think it's necessarily 10 times more work to transfer 100 names

versus 50,000 names. And it's also just uncomfortable to be talking about pricing in this context. It's not really pricing, but it is pricing. It's just like a weird thing that the policy development process doesn't do. And I don't know how to wrap my arms around it, I guess. I don't know. I don't know if that's helpful, but that's what I'm thinking.

ROGER CARNEY:

Great. Thanks, Catherine. And I think you hit on a lot of the points that you have to consider. And especially when we do talk about fees here and how that applies to a discussion, avoiding the discussion of pricing and things like that. And Catherine, I think Steve kind of put in chat something that you were hitting on. It's hard to do that. Plus it becomes an auditing issue possibly, and maybe heavily auditing just to make sure things happen. But yeah, so I think that you have to talk about those things. Theo, please go ahead.

THEO GEURTS:

Yeah. So this is Theo for the record. And those were great comments from Catherine there. And also Steve, and what always goes back to in my mind is why can't we have, why there is an issue within the US while we don't have that issue within Europe? I mean, for me, when you talk about cost recovery, those things should be up front. I mean, it should be a process that a registry sort of already figured out and knows what the price tag will be. It cannot be like, oh, for this registry, for this register, we're going to charge this amount cost price. And for this register, we're going to charge that amount. I mean, those prices should be fixed in my

mind. So we don't have to go shop around, negotiate around with registries. We already know up front like, oh, it's going to cost this amount at registry A, and it's going to cost that amount at registry B. And again, those prices will vary because those processes are different.

But looking here at Europe, I don't see many issues around it, unless—again, we are an international organization with ICANN, and of course, everybody is operating on an international basis. But you know, having some stuff up front should be—make sure that we don't run into many issues. And also, this isn't about being a business model. I mean, this is being like a service, which doesn't intend to be a business model. Thanks.

ROGER CARNEY:

Great. Thanks, Theo. And maybe I'll kind of take your words and twist them just to make conversation here. It sounded like you were suggesting maybe registries should publish their bulk transfer rates. And so that there isn't a question and there's not—and as you said maybe it's for one registry, obviously the price could be different because as you said just the coding efforts themselves are different. But does the policy just say registries need to publish their bulk transfer fees wherever? Theo, please go ahead.

THEO GEURTS:

Why not? I mean, ccTLD registry operators do it. So I don't see a difference there when it comes to process. I mean, if they can do it up front, it's basically on their website. And if it's not there, you just

ask them and they already got a document prepared for it explaining how the process worked and how much it's going to cost you. So thanks.

ROGER CARNEY: Great. Thanks, Theo. Catherine, please go ahead.

CATHERINE MERDINGER: I think Theo kind of answered it. So registries include in their RRAs pricing for their domain names. And they're usually not—usually like in a portal or something off to the side. And I'm thinking, is that posted, is that—and I'm just wondering who's—how does ICANN enforce that this is a reasonable recovery fee? And I'm assuming it's got to be ICANN that enforces it because that could be potentially a breach of this transfer policy. And I wonder about ICANN and maybe Compliance's fault. Might be helpful to reach out to them if this is a route we want to go, which I don't totally hate. But just how do they enforce it? Are they comfortable saying this is not—like maybe registry, are you in breach of the transfer policy by having this unreasonable fee that's not tied to cost recovery? Because ICANN doesn't just see your pricing. You don't like submit your pricing to ICANN. And so I'm wondering where that communication happens. And maybe you have to. Maybe that's part of this policy, is that you have to tell ICANN what your fee is. But I'm concerned about that piece. But I don't hate this idea. But only if ICANN can actually enforce it. And I don't know how they ...

ROGER CARNEY: Thanks, Catherine. Yeah. And I think to some of your question there, I think, obviously, business and competition should influence those pricing fee models. But yes, there still has to be that check and balance somewhere of that, because as you said, a rogue registry could get expensive. And as long as they publish them, then it doesn't matter. But there has to be some kind of check and balance there. Jothan, please go ahead.

JOTHAN FRAKES: Yeah, thank you. Yeah, so we're starting to see some of the registries not actually put the prices into their accreditation agreements, but rather refer to them and put them into sort of web portals or things of that nature. So it's not always going to be present what the actual per unit price is. But if we did have where bulk prices were perhaps included in the registrar accreditation agreement for what a bulk fee would be and what the circumstances are, it would be good.

The other comment I'd have here is, please, please, please, could it be that this is not individually decided per provider or per registry, that we have one structure across all providers, all TLDs? It is already very complex for us to calculate these and to sort them out. One price structure would be so preferred, because it really makes it very homogenous across all of this. And it's predictable for us and for the registrants that might be serving in this case. Thank you.

ROGER CARNEY: Great, thanks, Jothan. Yeah, and I think that the tough problem getting to one is the things that Theo mentioned where obviously each registry has a slightly different cost model of doing this work. So and actually even the registrars, as Jim mentioned, everybody has to do work here, it's going to have a different cost there. So Theo, please go ahead.

THEO GEURTS: Yeah, so piggying back on Jothan's idea there. Yes, it sounds good. So that's great. Except the way I'm thinking about this is this is a means to an end that is of course, part of your business model. But this is not a product or service you sell to registrants. So I think it falls sort of outside of scope. I mean, you will have costs incurring on your business. But it's not per se that this is a service you're selling to your registrants, maybe to your reseller. But still, you're talking about we're not comparing apples to apples here. So I think the business reasons and the process behind it is completely different. If we could have end up with a fixed price, cost price, great, but I don't think it's going to happen. And that sort of takes me back to the comments that Catherine made on how do you enforce this? You know, and basically, we talk about enforcement, that all goes back to accountability. Just a second here. I'll be right back.

ROGER CARNEY: No problem. Thanks, Theo. Yeah, and going along, I wonder taking what Jothan was saying, can we come up with a model and not necessarily numbers? But the model is something people have to follow. So you know, take the right column of this chart

here out, but leave the left column and then the right column can be filled out by the TLDs. And again, I'm just throwing ideas out. But Catherine, please go ahead.

CATHERINE MERDINGER: Yeah, I guess I should have looked at the transfer policy, current policy before I raised my hand, but I'm just I'm wondering, when we say mandatory bulk transfer fee, does it have to be mandatory? It's like sometimes you might want to waive it for certain situations. Is that already contemplated on the last slide and earlier and I should have paid better attention? Looks like it. Oh, this is the text. Will charge the gaining registrar. I just feel like maybe there should be some discretion there of like, oh, this is a customer service thing or this you're transferring them to sinkhole all these domains or something. And it's 50,000 that got registered with your registrar. These are kind of absolutely edge cases. But I'm just thinking that also I'm just like, I feel like we could add some squishiness to. Unfortunately, I also have to drop early. I'm sorry, everyone.

ROGER CARNEY: Thanks, Catherine. No, and I think that's a good point. Especially if you start talking about one of the big drivers here is obviously consolidation of registrars. But even within that, a registrar family has 20 different registrars and they want to just get down to one or fewer. It goes along with what Catherine is asking. Does that have to be mandatory for that to happen? Maybe it's not even changing of selling a business or anything like that. It's just within one registrar. They're just trying to consolidate and be more efficient.

Does that have to incur a fee? It's a very good question. Thanks, Catherine. So she dropped. Jothan, please go ahead.

Yeah, thank you. And I agree with Catherine that that mandatory seems like it should be discretionary, or at least there should be freedom to not charge in circumstances where it might be the right thing not to charge.

There was another scenario I wanted to explore here. Two more scenarios here. Right now we talk about it in terms of TLDs. And I think I mentioned in the last call that where multiple TLDs, whether or not they're actually directly operated by the registry service provider as the registry operator, or if the registry service provider services them as a client, it would be good that that this transfer would be per organization on the registry side, registry service provider side rather, because that's probably the organization's going to have to be doing the work. And the work is likely to be within the same system. So there are some efficiencies there that should be benefited from as a result of having those at one provider.

Additionally, on the other side of that, and you mentioned this, Roger, there are registrar families where there are perhaps multiple registrars. And we've seen the case where it may be that one entity that controls multiple registrars may have multiple registrars that they are performing this bulk transfer request for. So if there were a fee, could the fee just be for this transfer process rather than per TLD per registrar.

So an example might be due to M&A, a registrar might acquire on the one hand, a reseller profile registrar, on the other hand, as well, a brand management, corporate focused registrar, two entirely different business models, and want to consolidate those names into two separate registrars that are under their administrative control, that they would just do one request, one interaction engagement with the registry provider, and that those parallel tasks would fall under the same fee. And I hope I articulated that well, but that is a very real world sort of scenario that does come up. Thank you.

ROGER CARNEY:

Great. Thanks, Jothan. And I think you did say that well, and I think we've had really good discussion on this. And to me, it seems like it's funneled down to one of the bullets really was, should this just be left, this fee, should this just be left to the requester and the registry? You know, taking out, obviously, not the involuntary stuff or the non-voluntary stuff like that. But you know, if it's a voluntary move, should the fees just be left to the registries and the requesting registrars? And if that's the case, that's what we're kind of saying, we want it to be flexible so that they don't have to always do whatever in these different scenarios, is always putting an if on it. So if it's that way, what kind of controls can you put in place so that a rogue registry doesn't go crazy and say, well, I'll only do it if you pay me my billion dollars and make me happy?

And I think that that was maybe where I was leading to is, is it, hey, yes, you guys can agree to this, but you know, obviously you can't charge more than X dollar or whatever it is. And maybe it's

based on volume or not. Maybe it's you can't charge more than 10 cents a domain name or whatever it is. It's one of those things. But to the point is that it's a maximum and there's the flexibility of different reasons why things happen that the registry and registrar can just work out on their own. So but anyway, Theo, please go ahead.

THEO GEURTS:

Yeah, thanks. So when you're talking about the cost price and all these scenarios, I think in my mind, it always needs to be accountable. If you are setting a price as a registry and it's based on the amount of work or complexity that you're dealing with, then it's going to be X number and it will be the same for when there's another bulk transfer or another bulk transfer. Those factors are not going to change heavily. So you can always sort of agree to that fixed fee as long as you are accountable. I mean, yes, there will be a programmer involved or a developer. You will need to have X and this and this and this and that. But at some certain point, you cannot just come up with a lot of phony stuff and just inflate that bill till there's no tomorrow. I mean, then you're not accountable. And that's where ICANN Compliance can come in and go like, okay, all this stuff that you are making up that doesn't even exist and that is not realistic to what we see in the market because we see other registries going for mentioning quotes or prices, cost practices that are cheaper by a factor of 10 or a factor of 100.

So there will be always this sort of accountability among registries. And sure, there might be this registry that operates on a programming language called Pascal developed in the 1970s. And

if you need to find a programmer there, he's probably 90 years old and he's going to charge you an arm and a leg to make modifications to the registry back end. But that's not realistic. So I think that's going to be sort of, yeah, it's going to play out on a natural scale, I think. And I don't think that registries, the majority are not going to turn this into a gaming event because most registries know that they need to be accountable at some level anyways. And they just going to get all the feedback if they are going to charge cost prices that are not realistic because registries are going to scream bloody murder anyways. So I think in all scenarios, there is a cost. So that is not a problem. And if it's way too high, it will become accountable again. Thanks.

ROGER CARNEY: Great. Thanks, Theo. Owen, please go ahead.

OWEN SMIGELSKI: Thanks, Roger. So I guess part of my thing I want to raise here is I think we're focusing way too much on a single registry operator. My recollection from when I was with ICANN Compliance and working on these termination processes, quite often it was multiple TLDs. And with the new gTLDs, sometimes it could be dozens, if not 100 or more TLDs are involved. So I don't know if we really want to focus on per registry or just overall the transfer. I don't know specific numbers for my time of compliance, probably can't speak to them. But I just, I do know that since I've been at Namecheap, maybe there's only been one or two opportunities to look at portfolio acquisition through this termination process that we've considered. And again, it wasn't just for say 50,000 names

in one TLD, it was just more of a broader portfolio across a number of TLDs. So I think that's one thing that we need to make sure we keep in mind is how this plays out across a number of TLDs and whether or not these transfers are occurring that are over 50, or if it happens to be 50 across 50 different TLDs. So I think we just need to keep that in mind going forward.

ROGER CARNEY:

Absolutely. And as you stated, it's obviously it hasn't been that many. And to your point, it's rarely one TLD. So it is usually multiple TLDs. Good discussion on this. I think that's great. And again this, this item of moving names voluntarily, and in bulk as a full portfolio. I think that we've hit on a lot of those items. But it seems like we still want to be able to have flexibility in the fee assessment. And even when you look at Theo mentioning cost recovery, that doesn't mean that the registry doesn't have flexibility into waiving that in certain circumstances. But if we say it's a must, or it's a minimum \$50, if we say those things, then that kind of takes it out of their hands.

So what I've heard us eventually get to here after some good discussion is that, that we want that flexibility of fee amount, but we need to be able to control an upper bound there. So I think give that some thought, however that plays out. And again, maybe it does just change and, hey, it's between the registry and registrar and the policy doesn't mention it after that. And as Theo says, business will dictate a lot of corrections by someone that's trying to abuse it, but not necessarily all of it. So just something to think about.

Okay, I think we have made good progress. And I think we've followed that down to some, good spots there. What were we doing next? Okay. Caitlin or Berry, did you want to take us through these?

CAITLIN TUBERGEN: Thanks, Roger. This is Caitlin. I just wanted to note that during our last call two weeks ago, I believe it was Catherine, but others had agreed in the chat that the way that 1B of the transfer policy is worded, currently worded, it's a bit confusing. So if there was a way to potentially simplify that language, that could be helpful.

So what we did was the first point that someone brought up is that the, the transfers noted in section 1B are ICANN approved transfers. And as we discussed at the top of the call, there are certain factors that ICANN needs to see to in order to approve a bulk transfer. And so obviously it is first that the proposed gaining registrar or identified gaining registrar is accredited in all relevant TLDs, because as Roger noted, these are transfers that involve all of the domain names. If there's an RAA that's being terminated involuntarily or voluntarily, or the whole registrar is acquired.

So we have in these bubbles, what is noted in the policy for when ICANN would approve a transfer, except for the fourth bubble where partial bulk transfers under the BTAPPA, which stands for bulk transfer after partial portfolio acquisition, is another instance where a domain name could be transferred to another registrar without the registrant's consent. However, the difference here is that ICANN would not approve that. That's between a registry and a registrar. Not all registries offer the PTAPPA service, but in the

event that they do and the registry and registrar follow the process that is between those two entities, that might be another instance where a registrant's name would move without its consent.

So on the next slide, what we have is the current language of 1B1, and then a proposed update that could help simplify, but of course, similar to what we would do with the earlier draft recommendation that we discussed, we would put this in a Google Doc for the working group to mull over, because it's just an initial suggestion from Catherine that we thought we would provide some language for the group to discuss.

The current language notes that transfer of the sponsorship of all of the registrations sponsored by one registrar as a result of one registrar acquisition at that registrar or its assets by another registrar, or two, lack of accreditation at that registrar or its lack of authorization with the registry operator, may be according to the following procedure. And so we tried to make it a little bit more clear what that means, because that includes RAA and RRA terminations, where those registrants would need to have a new home and ICANN would need to approve another registrar to take on those names.

So again, that's just some proposed language for the group to think about and maybe have initial reactions to, but we would of course circulate this with that previously discussed language. And I see that Jothan has his hand raised, so Roger, I'll turn it back over to you. Thank you.

ROGER CARNEY: Great, thanks, Caitlin. Jothan, please go ahead.

JOTHAN FRAKES: Thank you very much. And Caitlin, very good presentation. I wanted to, can you back the slide up just one slide to the four circles? Because I think there's a fifth circle, which is where gaining registrar is making the transfers using the existing system via efficiencies under how transfer works right now, right? So there's a fifth bucket, which is where the bulk is performed under, I guess, standard EPP circumstances. I see Owen's hand. I'll pass the baton to you, Owen.

OWEN SMIGELSKI: Thanks. And so I think that might fall into the bucket of say a registrar is a reseller of another and they want to move the domains from the reseller registrar credentials to their own credential. I know that that is something that does go on and exist in there. And so I think maybe that's perhaps what Jothan was trying to describe. Currently it's not prohibited by the transfer policy. So by default it is thus allowed, but it might be nice to put some guardrails and stuff in there so that we can show that registrants are being protected. Thanks.

ROGER CARNEY: Great. Thanks, Owen. Theo, please go ahead.

THEO GEURTS: Yeah, I think that is actually indeed a fifth bucket, but does it really relate to bulk transfers? Maybe Jothan can explain what he wants to achieve by creating a fifth bucket, because I think that sort of falls under the -- well, it is in bulk sometimes, and yes, it goes through EPP. It does follow the regular transfer process as we have laid it out currently at the moment. So I feel fail see what we would achieve here. But if there is something to achieve here, that would be great.

ROGER CARNEY: Great. Thank you. Jothan.

JOTHAN FRAKES: Yeah, I don't know if there was an invitation to explain, it just seemed like we were describing those, and I didn't mean to summon my red stapler about how many circles were on the slide so much as to identify that there is, under how policy works currently with transfer, in the possession of the auth code, there are bulk transfers that occur in substantial automation for that same purpose that utilize the EPP. And so it is bulk transfers not using those four circles. It could be that these are bulk transfers, the entirety of a registrar's material.

Anyway, again, I'm struggling with, is this red stapler or not? So I want to be efficient with people's time here. So let's go ahead and proceed. Thank you.

ROGER CARNEY:

Great. Thanks, Jothan. Okay. Any other comments, questions? And, again, I think on these language edits specifically, I had to read this section multiple times just to be able to break it up. So I think some clarity here would be useful. So any suggestions, comments on potential edits for this? Thanks, Theo. Okay. That's great. And again, I will put this in a working document so we can all read it and consume it outside the meeting as well and provide any comments.

Okay. I think that was the end of our agenda. So if there are no other comments or questions, we had a good discussion today. And again, as the discussion continued, it sounded like we kind of honed in on a few things. So Jothan, please go ahead.

JOTHAN FRAKES:

Yeah. So one scenario that I think might fall into the categories here is where you say you have a registrar that has -- I'll take the example of those maybe where they've got multiple accreditations to participate in drop catching. I'll just go directly. And let's say they have 100 accreditations and then they decide to only have 50 and want to consolidate within their own business those registrations into those their existing registrars. So I think there's something where the same entity may hold all of this and want to kind of consolidate or do efficiency. I'm not sure if that falls into these categories. But this is where the business would be closing of that registrar, but the registrar entity that owns the accreditation would want to make sure that there is continuity of the actual registrar services for the client, for the customers and registrants. Thanks.

ROGER CARNEY: Great. Thanks, Jothan. Okay. If there are no other comments or questions, I think we can give some time back to everyone. Okay. Again, great conversation today and I think that we made some good progress. As Caitlin mentioned, working documents will be created, Google Docs, so that we can chew on these things offline as well in between now and our next meeting next week. And put in any comments and we can get them addressed. But with that, I think we can give everyone eight minutes back on the day. Thanks, everybody.

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

[END OF TRANSCRIPTION]