
ICANN Transcription

Transfer Policy Review PDP WG

Tuesday, 03 October 2023 at 16:00 UTC

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JULIE BISLAND:

Good morning, good afternoon, and good evening, everyone. Welcome to the Transfer Policy Review PDP Working Group call taking place on Tuesday, the 3rd of October 2023.

For today's call, we have apologies from Jody Kolker (RrSG), Catherine Merdinger (RrSG), and Jim Galvin (RySG). They formally assigned Christopher Patterson (RrSG) and Heidi Revels (RrSG) 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 e-mails.

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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. Okay, seeing no hands.

All members and alternates will be promoted to panelist. 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. And as a reminder, those who take part in the ICANN multistakeholder 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. Thanks, everyone, for the slight delay there on technical issues. I dialed in early and I still don't get it right. I don't have a whole lot to start the meeting. We just have a couple of weeks before everybody's going to start heading off to ICANN78. We have just a couple of meetings. So hopefully, we can get things wrapped up and get prepared for 78 by then.

I think we're nearing the end of our discussions here on the bulk transfer issues. We've got a couple of items left open. I don't know that we'll get them solved before then. Obviously, one, I think we're going to take to public comment. So I think we're going to end up winding up our discussions on these fairly quickly and moving forward. Again, just a couple of items left open. So I think we're in pretty good shape there.

Other than that, I think I will open the floor up to any of the stakeholder groups that have any comments or discussions

they've been having that they want to bring forward to the group, see if we can address anything or at least get input from any of the stakeholder groups. Anyone have anything for us today? Okay, great. Well, I think we can go ahead and jump into our agenda today. I think we're going to start with kind of a recap of where we sat and where we ended last call with. So maybe I'll turn this over to Caitlin, just to run us through where we ended and how we're sitting right now. So Caitlin, please go ahead.

CAITLIN TUBERGEN:

Thank you, Roger. As a as a quick recap from the last meeting, for those who weren't able to attend, we spent the meeting going over the results of this survey that we distributed to the working group. And the survey was really designed to flesh out the options the group had been talking about with respect to how to treat the current policy language about fees with respect to bulk transfers. And there were also some questions about the second charter question with partial bulk transfers or what we currently call the BTAPPA.

So the option that the group was considering were to keep the language exactly as it is, to remove any reference to fees and use the word reasonable, to remove a price ceiling but include something like reasonable fee. The third option was to retain a price ceiling, not necessarily the current price ceiling but a price ceiling, and add language around apportionment of fees among registries. That option noted that the current price ceiling in the policy was written at a time where there weren't as many registry operators in the domain name space. And now there might be bulk transfers involving 25 different registries or more or less, but

nevertheless, it gets more complicated when there's more registries. So the group thought adding some language around apportioning that fee could be helpful.

Then the last option that the group was considering was an algorithm based method that support staff included as a potential consideration based on some of the discussion. The algorithm, I believe the example was 0.5% of the wholesale price offered by the registry, and that was in an effort to be transparent about what the fee would be. So the registrar has some notice about what kind of cost they would be having to pay in the event of a bulk transfer.

So we discussed the survey results. The preference or at least the most popular option was Option 3, which was to retain a price ceiling of some sort and to add the apportionment of fees on language around that. And then the second most favorite option was the algorithm. There were votes for all of these options, for what it's worth. But it seems to be the most movement around Option 3, which shouldn't be that surprising in that the group has been kind of discussing this option since the beginning and some of the concerns around there. So that kind of leaves us to what the group really had some groundswell around and what remains still open. So I want to say it was approximately 90% of the survey participants believe that a price ceiling is important. And the reasoning given was it provides some predictability and it's a deterrent to abusive pricing.

In terms of what the ceiling number should be, that was a question that was posed to the group, and that number was a little bit all over the place, there wasn't a clear agreement. Some believe that

it should be exactly what it is now, others believe it should be significantly less, but it's still not an agreed upon number at this moment in time.

Because there was a split among all of the five options, Roger has suggested that this might not be an issue or an agreement that the group will have definitive text on at this point. We could be talking about it for several more months and still not have everyone completely agree. So with that in mind, Roger had noted this is clearly a good candidate for a targeted question during the public comment period on the group's recommendations.

So staff will draft that for the group when we're closer to going out for public comment, and obviously, working group members can help tweak that language to make sure we're getting additional feedback from the community that could be helpful and getting the group to agree. However, what we'll discuss a little bit later in the meeting is based on where the group is now and based on the preliminary recommendations and concepts the group has been discussing, we do have some draft recommendations that will look familiar, that can be put into the Initial Report just so that the community can see what those could look like but still opine on the most preferred option. So we'll discuss that.

The fourth thing that we noted was there was a more pointed discussion about the negative consequences of having a registry still charge a fee even if there's an involuntary termination, meaning that the registrar is being terminated by ICANN Org for a compliance breach or has just disappeared, gone dark, and is not nominating a gaining registrar, doesn't have an agreement with another registrar. And in those very limited cases, I think the

number was five or maybe it was three in the last five years. It's very difficult to procure a gaining registrar. I think some of the registrars spoke to that in a personal capacity of having agreed to take on a portfolio that wasn't ideal in terms of missing data, potentially abusive registrations. And without knowing in a climate of a lot of redacted data, there's not really an incentive for a gaining registrar to pay for a portfolio of names that is unknown to them. And it does involve flat-out begging by my colleagues in GDS to get a registrar to agree to take on names in an effort to protect the registrants that did have domain names at that terminating registrar. So during that discussion last week, there seemed to be no strenuous objection or no strong objection to making the limited instances of involuntary terminations, making the fee waiver mandatory in those cases.

When the group moved on to discuss the partial portfolio transfers or what this group has been calling change of sponsorship, the question remains where the group falls on if BTAPPA should be included as policy recommendations to be added to the Transfer Policy, or if there should be some recommendations just added to the registries that do offer that service and maybe some enhancements to the boilerplate of the BTAPPA. In having that discussion, some working group members noted it would be helpful to understand how many registries currently offer that service and that could inform the discussion. So the support staff worked to get those numbers so that we can share those today, just to inform that discussion later in today's meeting, then with that information, to continue the discussion of how this should be treated. That is important for the reason that two of the six draft recommendations that the group currently has are already part of

that boilerplate. So in the event that the group decides or the group thinks that it's best to just have it apply to registries that currently offer the BTAPPA, those recommendations need not be included in the Initial Report only because it would be redundant as those are currently requirements.

So that is the general recap from the last meeting. But I'd like to turn it back to Roger just to ensure that this accurately reflects or folks don't want to correct the record in any way or have anything, questions about what we discussed or other concerns before we move on into the meat of today's discussion.

ROGER CARNEY:

Great. Thanks, Caitlin. Great recap. The only thing I would add is probably on Option 2, I know there was a little discussion on. The problem everybody saw was the reasonable part that we kind of got to, and there was some discussion about reasonable but maybe there's a price cap or something similar to that. So I think there may be like a two way or something in there that is possible. But still, obviously, we all ran into that problem with the reasonable issue. But I think this is great.

I see that Theo also suggested in chat, maybe to make a specific call out in policy, especially when we're talking about the involuntary full transfers of a portfolio. Again, either accreditation gone or whenever for reason it is, but the full domain center management are moving. Maybe that does make sense in there. Maybe that helps draw a line there, and maybe that allows us to hit that fee waived idea on those involuntary ones. And we can kind of define those. Obviously, we can't define everyone, every

scenario, but we can define those high level what that looks like. So thanks, Theo.

Steinar, we've talked about that back and forth over the last few weeks. I think that we continue to discuss that. That's one of the problems where we haven't gotten ... I think that coming out, it was, okay, we can leave it as it is or it seems like that number should be smaller. Not just domains under management but it was the domains under management, and the fee itself may be lower. But again, the group hasn't gotten to that spot. I think that's why we're probably going to take that to public comment for question.

Yeah, I think if anyone has any questions, I think this was a good summary of where I think we stand today. Again, not leaving a whole lot open but we do have a few follow-ons to a few of these, like staff did pull up the use of the BTAPPA today or those that have access to it. Are there any comments or questions on these? Again, hopefully it recaps everything that everybody's been thinking about. Okay, I think then maybe Caitlin can take us on to what those possible draft recommendations are looking like.

CAITLIN TUBERGEN:

Thank you, Roger. The next, I think, it's five or six draft preliminary recommendations primarily stem from Option 3, which is what the group has been discussing at length about apportionment of fees and making sure there's some sort of ceiling included. So this language is going to look very familiar, but we just want to make sure that this is presumably the last meeting where we will be discussing this topic unless further discussion is warranted. So we're going to go over these again and ensure that there's no

overwhelming concerns or questions before we kind of close on this matter.

So the first recommendation is based on the current language in the policy. The current language says, “The registry operator will charge.” We changed that to “may charge the gaining registrar a fee for making the change. However, the total fee must not exceed 50,000 U.S. dollars.” That language is highlighted because you’ll see a bullet at the bottom of the slide that notes that there is not a current agreement on that amount. So we can have further discussion at this time or on the list. But ultimately, if there’s another number the group can agree to, that can be edited in the recommendations that are published.

During last week’s conversation on this, I believe the registry participants noted that they’re comfortable with the current price ceiling of \$50,000. There are some registrars that are not comfortable with that or prefer another number. But in terms of a, I guess, generally approved number or widely approved number among registrars, that has not been indicated yet. So we just currently have it as the status quo which is \$50,000.

Then to that end, Preliminary Recommendation 2 goes to the apportionment concept, which is if there are multiple registry operators involved, the affected registry operators must ensure the collective fee does not exceed the recommended ceiling of whatever that amount ends up being, currently 50,000 U.S. dollars, and the fee must be apportioned based on the number of domain names. And the recommendations following along these two go into a little bit more detail about how that would work in practice. But I’ll turn it over to Roger to see if there’s any concerns

with Preliminary Recommendations 1 and 2 on this topic or additional thoughts on what the ceiling number could be.

ROGER CARNEY:

Great. Thanks, Caitlin. I think, again, to Caitlin's point, this is kind of going off of Option 3, which we've discussed in pretty good detail. Obviously, the feeling from the group over the last few weeks is it's fairly good as long as we can get those numbers and details ironed out. I think probably the biggest question, as Caitlin highlighted here, is that number. We've talked all around this number and have gotten to what's the actual cost and things like that. We bounced around numbers. And really, no one's supplied another number besides abstract ideas. So anything here it would be really appreciated. Theo, please go ahead.

THEO GEURTS:

Thanks. I don't know what the magic number is here. Honestly, if I'm really honest, I don't think we can come up with what is the magic number here when it comes to the fees. Whatever we are going to throw out here or what to put in here, the moment that goes up for public comment, there will be commenters that will go like, "That is unreasonable. That is too cheap. That is too expensive." People will comment like, "Should a working group be setting fees? Isn't that running afoul with some laws in some countries somewhere?" If I'm going to say 50,000 is too high and it should be 5000," I cannot back that up with any logical reasoning for a registry operator, I mean, I just can't. I don't operate one, I don't know how they work, and I don't know how expensive it is. And even if I would know that for a registry, in this imaginary

example, I would be working for, I can't still call it out for the entire registries. I just can't. So you're going to have a dispute around these fees until forever. Thanks.

ROGER CARNEY:

Great. Thanks, Theo. I'll just bring up—I think Theo kind of mentioned it when we talked about Option 2 last week as well. When you set not to exceed a ceiling, we need to be careful just because that ceiling can then become a pseudo default instead of a ceiling. Again, I think most registries up through today anyway on the current stuff, they haven't been flexible on their fees when these things occur. But obviously, it's the issues around making sure that we don't have some registry run afoul of the intent anyway. Rick, please go ahead.

RICK WILHELM:

Thanks, Roger. Rick Wilhelm, Registries. When we think about this number, one, I think it should be presented that rather than setting a number, that the working group is not changing a number. I think that's the way that it should be presented.

The second thing is that when it comes to the actual, practical implications of this, the impact of Preliminary Recommendation 2 means that in most situations, the total cost of what is going to actually happen is the total maximum cost is going to actually drop because most portfolios for an active registrar are going to be across multiple registry operators. So because of Preliminary Recommendation #2, the total maximum cost is going to be a total of \$50,000 as opposed to under the current policy. It's \$50,000

times the number of registrars that's over 50,000 names. So the most likely scenario is that there would be over—this would have to be worded correctly so that the number of names in play for Rec 2 would be over 50,000 names for Rec 2, which right now that we don't have in there, but it just strikes me that we would want to put that 50,000 name limit in there probably so that we would make it no worse than the current thing, than the current situation. But then we would be able to say that the total maximum cost under the new process would always be guaranteed to be lower than under the current process. So as far as what we're doing here, one, we're not setting a fee. We're just reapportioning and lowering the maximum of the thing. Because I think that we want to stay away from this group is picking a number and just saying that we're taking the current number, reapportioning it, and lowering the maximum. Thank you.

ROGER CARNEY:

Great. Thanks, Rick. It's a good call out. If this number doesn't change, that's exactly right. We're not picking a number. We're just staying with the current. And again, a good call out on number two. If the group is comfortable about the 50,000 domains, to Rick's point, it shows that we are acknowledging that this is a different landscape than before and that we're not trying to look to price people out of this. We're actually making it more favorable. Jothan, please go ahead.

JOTHAN FRAKES:

Thank you. I think Rick covered a lot of ground I was going to cover so I can be really concise here. I always believed that there

is some additional effort that needs to happen as part of these transfers go. There are some who argue it should be zero, some who argue it should be capped at some amount. Candidly, every single scenario is going to have unique and distinct characteristics, scope of activities, considerations that are going to affect how much time investment, and how many systems are affected, how many top-level domains are under scope. I still come back to if it is the case that the registry is going to be required to identify how much it's going to cost to do this transfer, that there should be a way to articulate that number and have it be close to that and not exceed that. I always like time and materials but that's difficult to work with here because there's not a model to work against on this other than to quote or cite some sort of fixed amount, and that's difficult for someone to budget for.

So this is a tricky thing to play with this number, but the right way to do it would be some form of time and materials or instantiation—I don't know how you call it—a setup fee of some form to kick start this, maybe some project management fee. And I had come back to if there were some sort of, lack of better term, valet or a person who is managing this process within ICANN or somehow this is project-managed, that that person could work with the various registries to understand the scope, the scale of what this is going to look like, and then to help understand communicate what those costs are so that that's a predictable figure. Here, we have a case where we have to just work with a one-size-fits-all, not-to-exceed amount, and it's inelegant. I think we all want to do the right thing here. I don't know. We don't want to step on the electric fence of talking about prices or changing prices, but we also want to make sure that we're not setting something that's going to be

problematic for the next 12 years or until this is reviewed again.
Thank you.

ROGER CARNEY:

Great. Thanks, Jothan. Just remember, too, that this set of recommendations is talking about the full transfer. Again, how often this occurs is pretty limited. I think we've spent quite a bit of time on this before. We know it happens. But it doesn't happen all that often. So I think that we have to also make sure that we've got that in our head that we're talking about this as full domains under management moving. Caitlin, please go ahead.

CAITLIN TUBERGEN:

Thank you, Roger. This is Caitlin Tubergen again from support staff speaking. I think Roger read my mind, because I just wanted to kind of reset slightly. I think the group is having some really interesting discussions. Charter Question i1 was specifically added to the group's charter questions because there was a concern from ICANN Org or ICANN Org responded to the Issues Report that this \$50,000 fee that is required or at least was required or is currently required causes challenges specifically in situations involving involuntary transfers. The working group has discussed this and has made a draft recommendation around this, meaning the fee can be waived. After last week's discussion, there seemed to be groundswell around the fee must be waived and those instances in an effort to protect registrants and incentivize some registrar to take names of a failing registrar.

And as Roger noted, the full portfolio transfers or a registrar moving all of their names for termination or nonrenewal reasons or RRA termination reasons involving more than 50,000 names is few and far between. In preparing for the Issue Report on the Transfer Policy or the ultimate review, there was a lot of criticism of the current Transfer Policy. But no registrar wrote in that this fee that's mentioned in Section 1B was a nonstarter or needed to be changed. It was brought up because of the very limited issue of these involuntary transfers.

So I think that the discussions around apportionment and how the industry has changed are helpful and important, but in terms of landing on a number or not and deciding what that is, Theo brings about an important point, which is it's unlikely that this group is going to agree. And even if they do agree, public comment is probably going to say this is unreasonable or it should be this or it should be that. So in cases where there isn't any agreement, unless there's an extreme problem with the status quo or a disagreement with the status quo and a better suggestion, then the status quo would remain but some of the language around that maybe need to be updated based on some of the concerns discussed. So hopefully, that didn't sound like a screed about the current comment. But I just wanted to piggyback on what Roger was saying is, we've spent weeks discussing this and it's really, really a very limited instance when this B even comes into play.

ROGER CARNEY:

Thanks, Caitlin. Yeah. I think that we're all kind of leaning that same direction that Rick's last comments maybe—let's plan to leave the 50,000 idea in here and make that fit into this Option 3,

which seems to be favorable for everyone or almost everyone. I think that that's the goal here. As Theo pointed out, we could probably change this number 50 times and not get the right one. I don't know that that number matters as much as the rest of the words that we're coming up with here.

Okay. Any other comments on these two? We'll make some updates to them from those comments. Okay. I think we can move on. Caitlin, do you want to take us to the next ones?

CAITLIN TUBERGEN:

Yes. Thanks, Roger. These next recommendations are, again, piggyback on the apportionment concept. Preliminary Recommendations 3.3, I should say, should look familiar. The language is designed to account for situations where a registry operator chooses to waive its fee. And in the event that a registry operator does choose to waive its fee, that doesn't mean that if there are two registry operators involved, that the other registry who only had three names can suddenly say, "Oh, if it's \$50,000 to move those three names, it would be the percentage of the names would account for its fee." So that was just to the concern of what happens if someone waives their fee, that could kind of muck things up a little bit. So at most, the registry operator can charge the portion of the total fee based on how many domain names were involved.

Then to that end, the working group had noted that ICANN Org should be involved as the project manager of sorts or help with the remittance of the fee. The way that we had the language currently is that following the completion of that bulk transfer, the involved

registry operators must provide notice to ICANN that the transfer has been completed and include the number of domains transferred. We had asked kind of from a position of ignorance if there was some tool where ICANN Org will always know the authoritative number. Because I know in past instances, we can give registries and registrars a general idea of how many names the registrar currently has under management based on a tool that we use. But sometimes by the time that transfer has occurred, the names have already been transferred out or the data might be slightly delayed. So we have this in as a policy recommendation to note that the registry operator will ultimately be responsible for providing that authoritative number. And then ICANN Org will work with the relevant registered operator, say, "Okay, here's your percentage of domain names. And based on that, here's the amount you could charge if you choose to not waive the fee."

So I will pause and see if anyone has any concerns about either of those two recommendations.

ROGER CARNEY:

Thanks, Caitlin. Comments on these two? This has been fairly stable for the last few weeks that we've been discussing Option 3 for the last probably a month now. Okay. I think we can go ahead and move on then.

CAITLIN TUBERGEN:

Thank you, Roger. Preliminary Recommendation 5 fleshes out a little bit of what I was currently describing, which is kind of the next step. The registry operators must notify ICANN of how many

names that they ultimately transferred. And then once ICANN receives the notice, ICANN works with the registry operators with the reported numbers in determining the percentages. At the point that the registry operators receive that notice from ICANN, they may then charge the gaining registrar fee according to the schedule. But per Preliminary Recommendation 1 or 2, I believe, under no circumstances can that fee exceed the total fee of all the registries exceed at the price ceiling which is currently \$50,000.

Then Preliminary Recommendation 6 is what the group had preliminarily agreed to last week, which goes to that concept of involuntary bulk transfers which are usually associated with involuntary terminations. The registry operator must waive any fee associated with an involuntary transfer. I think we touched on why on many occasions, including at the beginning of this call.

I'll turn it back over to Roger to see if there's any concerns with these two recommendations. These, by the way, can include the draft recommendations for what we currently have for the fee.

ROGER CARNEY:

Great. Thanks, Caitlin. All right, any other comments or questions? As Theo said in chat and as we have here about the involuntary, is there a need to describe what involuntary is? Or is that just something that we leave as is to allow for the flexibility of something we don't see today that may come up? And the difficulty of specifically saying even if an RRA is being cancelled, that doesn't mean the losing registrar isn't being responsible and hasn't contacted someone. So I think it gets a little difficult trying

to enumerate these, but I wanted to open that up for the group. So, Rick, please go ahead.

RICK WILHELM:

Thanks, Roger. I actually were between my ears, because when I was looking at all this thing, all this complicated stuff about the apportionment stuff, and then right at the end #6 says, “Well, if it’s involuntary, then you got to waive it,” and so none of the above matters, which is a little bit like when I’m filling out my tax forms in April. It’s like, well, then what is involuntary? Because one of the things we think about I think would be “involuntary” is, let’s say a registrar wanted to merge their accreditations for some reason. What if a registrar said, “Well, what I want to do is I don’t want to pay the fees, so I’m just going to ignore the e-mails from ICANN about the renewal of my accreditation,” and then that will turn it into an involuntary—I’m smiling when I say that. So I think that we should go to some work to—at least put a few words about that, about what that really means. I don’t have those words rattling around in my mouth, but maybe this is kind of getting to it. I think that’s Caitlin. But maybe we’re getting there already. So thank you.

ROGER CARNEY:

Thanks, Rick. I don’t know if you are suggesting it or not, but just kind of drying this. Do you think #6 should be moved to #1?

RICK WILHELM:

That’ll be a good idea just to simplify the explanation for the reader.

ROGER CARNEY: Okay. Theo, please go ahead.

THEO GEURTS: In the example that Rick just gave where a registrar wants to consolidate one of its registrars and then not to renew the fee, it's not a big gamble on the part of the registrar who wants to do that. I mean, you're going to leave it up to whoever's going to take over that portfolio, I guess. You might not end up as the registrar you want to be. But I do share the concern, though. That is why I mentioned split this up. I mean, voluntary and non-voluntary. Yes, they are transfers, but the specifics and the procedures around it and the details are, in my opinion, very different. It would add some more clarity. And when you split it up, then you can sort out those examples that Rick mentioned and make sure that doesn't happen anyways. Thanks.

ROGER CARNEY: Great. Thanks, Theo. Caitlin. Please go ahead.

CAITLIN TUBERGEN: Thanks, Roger. I was just going to respond to Rick and Theo's comments that I think those are good suggestions and helpful suggestions. The reason that we have this as Preliminary Recommendation 6 is because we tacked it on based on last week's discussion. But I agree that it makes a lot more sense to keep it up to beginning, noting when registry operators may charge a fee and when they must waive fees. We have some

previous examples, and I noted those in the working document, but that would need to be fleshed out a little bit so staff can certainly come back with language to address that concern, because I do understand the concern. When we are drafting policy recommendations, it is important for the working group to consider how can this be gamed? How can this be abused? And “I’m just not going to respond. It looks like it’s involuntary and I’m going to get away from paying these fees when I really have a backhand deal with some of the registrar.” So we can make clear which specific cases that the fee must be waived. And we’ll see if the language that is shared with the working group is something that addresses that appropriately or if more discussion or text is needed around that. Thank you.

ROGER CARNEY:

All right. Thanks, Caitlin. Okay. Any other comments on this? Again, we have a few things we can do. Move this up and look at some examples here. Again, I think how we get them worded in here will be important for the group. But we can hopefully do that offline and clean those up. Okay, great. All right. Caitlin, you said that was it for this. What are we on to next?

All right. Again, here really quick before we get into our draft recommendations or our preliminary recommendations, this is one of the big outstanding questions here as well. I think everybody agrees on the preliminary recommendations and we’re just trying to figure out, does it fit in the optional BTAPPA service that registries can or cannot do or choose not to do? Or is it going to be put into policy where all gTLD operators have to conform to it? Again, it’s open question. I think Jim and maybe Rick was going to

take that back to the stakeholder group and have that discussion about that in light of all of our discussions we've had here. Caitlin, was there anything else that you wanted to cover here?

CAITLIN TUBERGEN: I was actually going to ask if Christian, my colleague, wanted to talk a little bit about the outstanding question from the working group about how many registry operators are currently approved to offer the BTAPPA so that it can inform the discussion of if that response would trigger any change and how people feel about whether it should be for all registry operators only the ones who offer BTAPPA.

ROGER CARNEY: Great. Christian, are you able to jump on and talk about that? I can't hear Christian if he's talking.

JULIE BISLAND: Your mic's open Christian, but we can't hear you.

CHRISTIAN WHEELER: How about now? Is it better?

ROGER CARNEY: Much better.

CHRISTIAN WHEELER: Okay. It might be my headphones. In the last call, staff have been asked to take a look to see how many registry operators are actually approved to offer or currently offer BTAPPA. We did that with help of our GDD team. Looking at that, we actually see that we have about 311 registry operators. No, sorry. It was the gTLDs. We actually have 24 registry operators that are active and with BTAPPA. So 24 registry operators out of a total of 505. That puts it at about 5% of registries offer it. However, that does cover about a little over a quarter of active TLDs, because some of those registries have a pretty big portfolio of TLDs under management. So in total, we have about 311 active gTLDs that BTAPPA applies to. About 27% of TLD is currently off of that or 5% of registries. Those are the current numbers for who actually offers BTAPPA. It covers about a quarter of TLDs currently.

ROGER CARNEY: Great. Thanks, Christian. Was there anything done with how many domains under management that those cover, I guess?

CHRISTIAN WHEELER: That's not data that we actually could track that we have, that we could find. But noting that the TLD that does offer BTAPPA that has the largest portfolio would be .info and they have about 4.7% of the total domain names on the market, so a little less than 5%. That would be the largest TLD. It would be .info that offers BTAPPA. Sorry, I don't have those numbers right now.

ROGER CARNEY: That's great. Thanks, Christian. Rick, please go ahead.

RICK WILHELM: Just a question for Christian. I'm looking at the RSEP page and I'm not sure exactly what data you're looking at. But like I'm looking at the page and it shows that Binky Moon has 196 TLDs approved for BTAPPA. Binky Moon is the operating company that's part of Identity Digital, that's the holding company that has a bunch. There's Dog Beach. I can't remember which one that is. It has 49 TLDs for BTAPPA. I know that .COM has BTAPPA approved. It's a nonstandard. It's not a Fast Track. .COM, I know, does not have the Fast Track language. It's got its own flavor, which is close to but not exactly the same. So I think it's a little bit more widespread. I mean, I'm just looking at this. I just googled it. I pulled this up while you were talking. Sp I'm not sure. Maybe that just deserves further research to square that out.

CHRISTIAN WHEELER: Regarding .COM, .COM doesn't have a signed RSEP with a BTAPPA approval. They might have their own thing, but it's not. At least, it's not the same as being a BTAPPA that the rest of the TLDs or registry operators have. But yes, you're right. Binky Moon with their 196 TLDs and Dog Beach with 47. That RSEP page, if you actually go through them and you count up all the registry operators that I believe is since 2017 on that list, you'd get to about 33 of those. However, some of those are not active anymore. Just talking about active registries with BTAPPA, it's 24 in total. Those are the numbers.

RICK WILHELM: When you say registry, do you mean registry operators or do you mean TLDs?

CHRISTIAN WHEELER: Registry operators. 24 registry operators and 311 TLDs. Under those 24 registries, they account for about 27% of the active gTLDs. The biggest ones are Binky Moon and Dog Beach. You're right.

RICK WILHELM: Got it. Okay. Thank you.

ROGER CARNEY: Thanks, Rick. Okay. Any other questions on that? Thanks, Christian, for pulling that up. Maybe we'll have more follow-up on that. But I think that's helpful to see where that's going. Again, I think, as Rick and Christian pointed out, .COM has a bulk agreement that they have with their registrars. But it is not the exact same as the BTAPPA or under that BTAPPA RSEP. Okay. I think we can go ahead and move on from this then. Jothan, go ahead.

JOTHAN FRAKES: Thank you. I was trying to come up with a way to say this. It didn't sound like it was penalizing maybe registries of particular scales. For BTAPPA, I keep beating the drum that with the changes that are going on elsewhere in our policy work, that this BTAPPA that is seldom used is likely to receive higher degrees of use, as we

may be drying up the opportunity for automation that is opaque to our stats. Where someone may be automating transfers in bulk through automation, utilizing the existing SRS system. My theory here, which I feel is plausible, is that we're going to have additional strains and need for better defined BTAPPA to be available.

The challenge is that over a certain scale, there's a particular magic number when dealing with these bulk migrations of names that are a partial component of a whole registrar's holding, that some of these are not a lot. It may be 100 names at once, it may be 1000 names at once. There is a particular point at which it's much more effective or efficient to coordinate with the registry to have that transfer occur. In some cases, some of the registries do not have that many domains under management. So I know it's quite a lot to ask that a BTAPPA be defined gTLD-wide. But perhaps there could be a trigger requirement that once a registry hits a particular size that might merit the need for a BTAPPA, that that'd be something that get added as a requirement. A registry—if they achieve 25,000 names under management or more, perhaps there's a need for BTAPPA to be defined for those registries. And there may be somewhere BTAPPA would not be necessary, such as perhaps Spec 13 or Spec 9 registries and registries underneath whatever that threshold number is. Thank you.

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

THEO GEURTS: Thanks. I agree with what Jothan says. But one thing that isn't included in his argument is that we don't know the future. Jothan is right, there might be registries that are small now and maybe they stay small but maybe they get big over time. I mean, we've seen it in our industry with a couple of ccTLDs like .IO and .AI suddenly just have a huge, huge growth. We can't predict the future and we can't predict how many new TLDs are going to be in the next round. It could be 100, could be 20,000. I have no idea. You're all kinds of numbers. But that unpredictability is something that we need to cover as a working group, in my opinion. Of course, if the working group decides not to do that, that's okay. But I just want to be on the record, that would be a mistake in my opinion. Thanks.

ROGER CARNEY: Great. Thanks, Theo. Again, when you're talking about it, I think, at least the people on this call seem to think that that makes sense that this partial transfer is something that is probably going to continue to grow in scale, unlike when we just talked about in the full, that doesn't happen all that often. I think everyone here agrees with that. It still doesn't mean that that's a policy or BTAPPA or, to Jothan's point, maybe the size can dictate it. But the general idea I think... I haven't heard from this group, anyone, say that this isn't going to be a big deal. It's not going to continue to grow. I think that at least this working group understands that these partial transfers have been around for a long time. As Jothan and Theo both mentioned, there's been constant workarounds over the last 15 years outside of a BTAPPA even. And when you include the BTAPPA, all those functions are just

going to increase in numbers. I don't think I've heard anyone say that that's not true. But I think this working group at least understands that that's going to continue to grow. Again, where that happens I think still needs to be cited as this slide here shows. I think to Steinar's last question there, it is two different questions. We're talking about partial transfers, where does that belong. We're not concerned about the fees while we're talking about that. And then fees are a separate topic of that. Okay. Steinar, please go ahead.

STEINAR GRØTTERØD: Hi. From my understanding is that within the RSEP if the registry operator submits an RSEP for BTAPPA, they also define the fees connected to that service. So if we are going to agree upon that, all registry operators should allow partial bulk transfers. Should we also have an opinion about the fee for that service? Or is that up to the registry operator itself? Even if the latest. Then it kind of gets some sort of a single bulk transfer. What does it cost them and for a bulk transfer for registry operator? That is also interesting in the previous discussion. Thank you.

ROGER CARNEY: Thanks, Steinar. I don't know if the team got that far into looking at each of the BTAPPAs that are active right now. I thought that at least the majority of those had the same fee schedule, if not all of them, had that same fee schedule within it.

CHRISTIAN WHEELER: No. Sorry, Roger.

ROGER CARNEY: Okay. I didn't think so. Thanks, Christian. I did see a chat fly by. Rick did mention that the Registry group is talking about this. Again, we'll hear back from them on their stance on that again, taking into light everything that this working group has been talking about. Okay. I think let's go ahead and move on to our preliminary recommendations here, if Caitlin would like to take us through those.

CAITLIN TUBERGEN: Thank you, Roger. The first recommendation was about notification. It's similar to what's currently in the boilerplate for the BTAPPA as a result of the RSEP. But in terms of the notice requirement and what's in it and when it needs to be sent, those are slightly different. The point of this recommendation is that registrars need to notify or ensure their resellers notify if they're using resellers affected registrants no less than 30 days before the change of sponsorship is expected to occur. You'll remember that we changed it to expect it to occur so that the registrar wouldn't be required or send multiple notices if it's delayed by a couple of days or if there's some sort of technical glitch that prevents it from happening on that specific day.

Then the second sentence of the recommendation notes what the notification needs to include, which includes instructions on how to opt out, if that's applicable or how to transfer the name to a registrar other than the gaining registrar. The expected date of the change, the name of the gaining registrar, and a link to the gaining registrar's terms of service. There were the asterisk appears, that

is in response to a question that if a registrar has multiple TLDs that are covered or a customer has multiple TLDs, the notice could include multiple TLDs so long as all of these pieces are the same for the transfer. So if the transfer is going to include multiple TLDs but it's happening around the same date and it's the same gaining registrar and the instructions are all the same, you don't have to send 100 separate notices if it's all the same. So that was a request by someone in the working group to include that.

Roger, I'll turn it back to you to see if there's any questions or concerns with this recommendation.

ROGER CARNEY:

Great. Thanks, Caitlin. As Caitlin mentioned, I think, we called this out many weeks ago. The BTAPPA has similar language. Maybe it's not this explicit, but has similar language. I think it was 15 days' notice in the BTAPPA, and I think this group settled on the 30 days. I think that was really the only big change there. But any comments, concerns or questions here? Ken, please go ahead.

KEN HERMAN:

Hi, Roger. Thanks so much. I'm still concerned about the 30 days, given the time it takes to actually affect the transfer to understand what is happening to my domain. Most of the noncommercial community not going to be very technically sophisticated when it comes to working with this, you're going to get a notice and not really going to understand what's going on. It'll take them some time by the time they find a registrar, etc. Some of our communities are going to be concerned about where this is going.

And access to private information that the citizens registration information that might be sensitive based upon the type of the organization that they are. If there's any flexibility for that 30 day, I think, extending it a little bit more I think would be welcomed. Thanks so much.

ROGER CARNEY:

Great. Thanks, Ken. I'll just note—and please suggest any that you like—I don't know if we look at other policies, if we can derive anything from those, but I can't think of any top of my head. But others note here that it's no less than. I can see that and see others pushing this out to 45 or 60 days' notice. But to your point, if there is number of days, I think that'd be great to know. Thanks, Ken. Sarah, please go ahead.

SARAH WYLD:

Hi. I'm also thinking about the no less than 30 days because there needs to be some flexibility the reasons for why it made a lot of sense that we heard earlier. But also, what happens if the registry sends it six months before? Or the registrar. If the message is sent six months ahead, then everyone's going to forget about it. But technically it matches. I went back to the expired Registration Recovery Policy which includes one of these notices must be sent approximately one month prior to expiration. What if we consider saying notifying affected registrants approximately 30 days before the change? Thank you.

ROGER CARNEY: Great. Thanks, Sarah. Theo probably had the same idea, it looks like. Thanks, Sarah, for doing my work there for me since I couldn't think of one that match that. Thoughts on that approximately 30 days? I think the expiry, Sarah, has four different ones or something like that, notices they have to be sent at different intervals, obviously shorter than this. But to Ken's point, maybe there can be even longer one. Jothan, please go ahead.

JOTHAN FRAKES: Thank you. Sarah, great citing. I think we've had it raised by other groups. I know the Business Constituency and some others have raised that they would like consistency along the lines of these different dates that are defined. I would like to give the registrant as much notice as possible. We are the pilots, they are the passengers of the plane, so they don't experience turbulence without getting the seatbelt sign turned on.

Anyway, I think this is probably more related to involuntary transfers than voluntary transfers. There may be some scenarios where voluntary transfers that are approved by ICANN are going to fall into scope. But I've mentioned this in the chat that we may want room for this to be waived just in case for situations of war, national emergency, etc., that there may not be an availability of that span of time to appropriately act and provide that notice. If there is something that is necessary for continuity for the registrants, that we have room for that to be waived. Thank you.

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

THEO GEURTS: I agree with Jothan here. I mean, if it's not voluntary, there are some reasons behind it. And usually, the past has shown that those reasons weren't really great for the registrants in general. There are times you want to move them really, really quick to wherever they can go and then sort out the issues later on. I mean, sometimes these things are really, really pressing, as we have seen in the past. Thanks.

ROGER CARNEY: Great. Thanks, Theo. Any other thoughts on Jothan and Theo's intervention there on this possibly needing a quick path? Triage. Thanks, Jothan. I think that's great input. We'll take a look at that and see what we can do there. Okay. Any other comments or issues here on this one? Okay, great. Caitlin, go ahead.

CAITLIN TUBERGEN: Thanks, Roger. The next preliminary recommendation, you'll note that it's colored in green and there's an asterisk here. And that is because this language is pulled directly from the current BTAPPA boilerplate. So in the event that the working group decides that the recommendation should be updates to the BTAPPA rather than updates to the Transfer Policy, this would be redundant and accordingly unnecessary to include in the policy. But we have these here since the working group hasn't made a decision on that yet, to my knowledge. What's currently part of the standard BTAPPA is for change of sponsorship, the expiration dates of transferred registrations are not affected, and therefore there are

no ICANN fees. Once the change of sponsorship is complete, there is no grace period to reverse the transfer. So just noting that this isn't like a typical domain name transfer. There are some exceptions and that's specifically around the expiration and the grace period that attaches to a expiration or the grace period to reverse it.

ROGER CARNEY: Great. Thanks, Caitlin. Sarah, please go ahead.

SARAH WYLD: Thank you. What about the post transfer locks? Are the locks applied? And if not, should we say so here? Is that covered elsewhere? Thank you.

ROGER CARNEY: Good point, Sarah. I think we touched on that a few times in our discussions, but good point. Good call. Theo, please go ahead.

THEO GEURTS: Unless registries are going to do things on their own and decide to mess with the statuses, which I cannot imagine because that's going to cause a lot of problems, but maybe it is good to point that out in a policy that there are no changes to be made to the domain name on every level. I mean, there's not going to be changes on the nameservers, the registries are not going to update the domain names from the locks or whatever. I mean, that cannot happen. We have done a couple in the past and the experience

with the registries we had so far, they just transfer it as is. I mean, they'd go from one registrar to another and the results will remain the same. If there is a transfer lock on a domain name because the registrant put a transfer lock on it, it will remain there. If there is a registry lock on it, for whatever reason, commercial reasons, it will remain in place. And there are good reasons to not touch that. If Sarah is concerned, maybe we should in policy. Thanks.

ROGER CARNEY:

Great. Thanks, Theo. Okay, great. Thanks for that discussion. We'll make sure that our recommendations cover those scenarios, I think. I would agree. And it doesn't seem to make sense. Obviously, it's counterintuitive to put those on here because the registrant is not the one that initiated it. So it just doesn't seem to make sense at that point. Any other comments on this one? Okay, great. Thanks for that. I think we can go on to the next one.

CAITLIN TUBERGEN:

Thanks, Roger. I had noted in the chat and I flipped ahead that there is a recommendation about what locks would still apply. We'll get to that. But if there's still a concern with how that recommendation is worded or it doesn't address the concern or it needs to be more explicit, that a typical post transfer lock would not apply, we can discuss when we get to that one. I just want to note that it is covered in one of the current recommendations.

The next recommendation is similar to Recommendation 2. It's shaded green, which means that it's currently part of the boilerplate BTAPPA. But it essentially provides reasons why a

registry operator can reject a BTAPPA request. And that is if they believe that this is to avoid fees that are due to the registry operator or to ICANN, also registry operators have discretion to reject these requests. If there's some sort of common ownership or management and their change in sponsorship has already been requested within a preceding six-month period.

That discretion is currently allowable under the boilerplate BTAPPA and in previous discussions, working group members had noted that that is something that should, if it does become part of the Transfer Policy, be considered as a recommendation. In other words, if there's some sort of gaming or abuse going on when it comes to fees, that fees can be rejected. They don't have to be accepted.

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

THEO GEURTS: Maybe it's me. Is it really a concern for registry operators? I thought they always collect their fees, just like the [inaudible]. Thanks.

ROGER CARNEY: Thanks, Theo. Again, I think that as the ecosystem has changed, obviously, 10, 12 years ago, all the registries took their money out as transactions occurred and now there's a lot of post billing. So I think that it's probably more useful now than it was before. Rick, please go ahead.

RICK WILHELM: I'm unable due to Zoom limitations to raise a smiley face. But if I could have raised the smiley face instead of a hand, I would have. This one here, this is the reason why the second sentence in the paragraph is there. It's to avoid gaming of the mechanism by doing two bulk transfer requests within an annual registration period. Because as we know, these transfers don't come with a term extension. If you're doing something here that is happening that could have something to do with—where you're trying to avoid a term extension with these things, that's why this is here. But I'm not sure if Theo was asking that question in seriousness or just because he didn't raise a smiley face, he raised a hand when he talked also. Just for the record. Thank you.

ROGER CARNEY: Thanks, Rick. Okay. Any other comments? Again, this is part of the BTAPPA. I think Jothan said that soothing color here. Again, it won't need to be added but if we stay with BTAPPA, it will need be transferred over if we do say it goes into policy. Okay. I think we can go to the next one, Caitlin.

CAITLIN TUBERGEN: Thanks, Roger. The Preliminary Recommendation #4, I believe this was something that was requested by or noted that needed to be added by some of our registrar members. The losing registrar's existing Registration Agreement with customers must permit the transfer of domain names in the event of the scenarios described in the Transfer Policy with respect to a change of sponsorship.

Additionally, the losing registrar's Registration Agreement must inform registrants that in the event of a change of sponsorship, the effective registrants will be deemed to have accepted the new registrar's terms unless the registrant transfers their domain name or names to a different registrar prior to the change of sponsorship.

What this was getting at is in order for a registrar to use the BTAPPA, whether it's part of the Transfer Policy or a service offered by a registry, their Registration Agreement with the registrant must permit this type of transfer. That was kind of a long policy ease way of saying that.

ROGER CARNEY:

Great. Thanks, Caitlin. I think that we stumbled and not going to... I think Owen took us down several paths about this. So I'll give him some credit on this one or maybe some blame. I don't know. Whichever one works. I think this was a good call out because the BTAPPA doesn't have language like this in it and I think it's important that we have that. Okay, it's credit. I'll give Owen credit for it. Again, I think we ran into this early in our discussions and it was a really good add. But I think open for comments or concerns here if any one has any. Theo, please go ahead.

THEO GEURTS:

Actually, I don't. Thanks.

ROGER CARNEY: Okay. Great. Thanks, Theo. I think we can go to the next one, Caitlin.

CAITLIN TUBERGEN: Thanks, Roger. This kind of addresses—I think it was Steinar’s previous point to some extent. This was actually language that the working group had discussed in reference to full portfolio transfers. But essentially, the language gets at registry operators may charge a fee for these types of changes. However, they must provide notice to registrars of any fees associated with a change of sponsorship upon request and prior to the initiation of the transfer. How registry operators choose to provide notice of fees will be up to the registry to decide. That could be password protected portal, website written notice, etc.

Of course, that last sentence was really designed to provide flexibility to registry operators. But the takeaway here is that notice needs to be provided in advance so that registrars can have an idea of how much this would cost before they go ahead with the transfer and then are charged a large and unexpected bill at the end of it. It’s just about transparency.

ROGER CARNEY: Thanks, Caitlin. Okay. Any comments or concerns here? Again, we talked ourselves into leaving this pretty flexible but incurring the transparency part so that everyone knew before what it would cost. Okay. No comments? I think we can do the next one.

CAITLIN TUBERGEN: Thanks, Roger. This is the last draft recommendation for the change of sponsorship. And this goes back to the point that Sarah was raising about locked domain names or what locks apply. This is trying to make that clear that in the case of a change of sponsorship, the losing registrar may have to prevent certain locked domain names from proceeding with a sponsorship change. Specifically, names that are locked due to a pending UDRP proceeding, a court order, a pending dispute under the TDRP, or a pending URS proceeding.

I'll note that the reason that these were included—I think Theo use this as an example—is that there are jurisdictional implications of moving names that are subject to ongoing proceedings. For that reason, those names won't be able to move until the pendency of that proceeding or the proceeding has concluded. But I see that Sarah's hand is raised. So I will cede the floor and give it back to you, Roger.

ROGER CARNEY: Thanks, Caitlin. Sarah, please go ahead.

SARAH WYLD: Thank you. Hello. This is indeed about locks but it's not what I was asking. For a standard domain transfer, we've said that there's always a 30-day lock. Here, for this ICANN approved transfer, I think we all agree that there should not be a 30-day lock on that domain after the transfer has happened. I think that but I actually don't know why. So maybe we don't agree on that. Anyways, I do

think that somewhere, the policy should tell us what the requirement is for that lock. Thank you.

ROGER CARNEY:

Great. Thanks, Sarah. I think you said it right the first time. As we talked through this, I think the group said that we shouldn't be applying those locks because it's not registrant initiated. Again, those locks should not apply. And I think Theo even went a little further. Again, off the top of my head, I can't think of any but I'm sure there's going to be some locks that may be there that aren't part of these four or five here that we just don't want to change either. So if there is either something specific lock that's on that, we're not looking to change any of those locks, including the do not transfer lock. As Theo went down that path, we're not looking to change any kind of locks in these moves. Caitlin, please go ahead.

CAITLIN TUBERGEN:

Thanks, Roger. I think that to give you a small preview of what's ahead in terms of where are we now and what is the group agreed to because it's been a been a long time since we've had some of these discussions and support staff was even going through and were compiling those materials to aid the group in recalling what the group has spoken about and agreed to both in Phase 1A and Phase 2. There were a couple of outstanding things in terms of locks, particularly the post inter registrar transfer and post creation that are still open, that we will be discussing. And I think that when the group had that discussion, the idea of having BTAPPA as part of the Transfer Policy wasn't something that existed at the time.

So that will need to be revisited to determine what the working group feels about or decides what lock should apply or if there are instances where it shouldn't apply.

I did want to make one slightly pedantic comment and I apologize in advance. Currently, BTAPPAs are approved by ICANN to be added as a service. But ICANN has no visibility into when a registry and registrar engaged in some sort of BTAPPA, ICANN does not approve that. When I hear the term ICANN approved transfer, I am thinking of full portfolio transfers, and that is when ICANN does need to approve that because ICANN have to ensure that the gaining registrar is approved in all of those TLDs, is in compliance with its agreements, because ICANN is not involved in the transfers of BTAPPA today or necessarily in the future. I just wanted to correct that point that there is no ICANN approval in this. I know that we had some confusion in the past of what's the full portfolio versus partial portfolio. I thought I would just correct the record there. Again, sorry for the pedantry, but ICANN doesn't approve these currently.

ROGER CARNEY:

That's great. It's great to call, Caitlin, just to make sure everybody's on the same page there. I think getting back to Sarah, and maybe some Theo's input on this one is, honestly, I don't know if it makes sense to put more text in this recommendation or have a new recommendation that says, basically, statuses aren't changing. Sentences don't change in this process or something like that. Split it up. Thanks, Theo. I think that it gets a little long, but it's kind of interrelated. It's the only reason I would say so. I would think another one that says no other locks are specifically

being adjusted. And again, I don't know if it's just locks. Any status that an EPP status is on it should not be changing.

Okay, any other comments besides Sarah's? Thanks, Sara. And Theo's addition to this, which I think we can put in a #7 or somewhere else, but separate. Okay, good. I think that takes us right through time as well. I don't know if anyone has anything else to say in our last few seconds here. But good discussion today. Again, I think that we're in a spot where we're going to start to move forward and start moving toward our change of registrant discussions. We'll update these for our discussions today.

All right. Thanks, everyone. We'll talk to everyone next week.

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

[END OF TRANSCRIPTION]