
BRENDA BREWER: Hello, everyone. Welcome to RDS-WHOIS2 Plenary call #46 on January 14, 2019, at 15:00 UTC.

Attending the call today is Susan, Dmitry, Carlton, and Alan. We have no observers. From ICANN org, we have Jean-Baptiste, Jackie, and Brenda. Apologies from Chris.

Today's call is being recorded. I'd like to remind you to please state your name before speaking. And, Alan, I'll turn the call over to you. Thank you.

ALAN GREENBERG: Thank you very much. First of all, any statements of interest changes? No hands, no voices. All right, the intent of this meeting is to try to go over a number of the changes that have been proposed and see if we can get agreement at the very least from the people on this call.

At the same time, I think we need to start to look at where we are. It's 14 January today. I have a meeting Wednesday through Friday on the EPDP, so I won't get a lot done past tomorrow. We have had, unfortunately, very little input from a good number of the people on this group since the face-to-face. Cathrin has done a fair amount of work as has Lili, and I don't believe there have been a lot of other comments though other than from Jackie and me.

So at this point, it's clear we are not going to make our January 31 deadline. We don't have a lot of slack after that because, among other things, those of us who are going to Kobe are leaving early in March. So

Note: The following is the output resulting from transcribing an audio file into a word/text document. Although the transcription is largely accurate, in some cases may be incomplete or inaccurate due to inaudible passages and grammatical corrections. It is posted as an aid to the original audio file, but should not be treated as an authoritative record.

we really don't have much time to get this done and submit it preferably so that ICANN will have had some chance to look at it before we get to Kobe.

So I'm not going to try to set a new date right now, but with really are going to have to put on the speed and get this done and get commitments from everyone to at least go over thoroughly their sections of the report. It's really mandatory that everyone at least look at the sections they led, if not other ones, at this point and make sure that the document is consistent and that it's tight. We had a lot of duplication going into the initial report, the draft report. Some of that has been corrected, but much of it really requires the subject matter experts to work at it and it's not something Jackie can do unilaterally.

So I open the floor to any comments or questions about how we do this, and then we'll start looking at some specific issues. And I see nothing. Jean-Baptiste, please go ahead.

JEAN-BAPTISTE DEROULEZ: Yes, Alan. I'll mark that down as an action item, but I wanted to ask you what would be the deadline for all the review team members to have a look at their section and confirm that they are [complete]?

ALAN GREENBERG: Well, given that I'm going to be Tuesday through Friday, I feel comfortable in saying by the end of Friday they have to have gone through their section with a very fine-toothed comb and either made suggested changes in the Google doc or at least add comments about

what needs to be changed. Certainly, where content needs to be changed, it has to be done by the subject matter experts. We can refine language afterwards, but that's all. And where there is repetition, again, it needs to be at least identified if not corrected by the subject matter experts. So I think the absolute deadline is the end of Friday. The only exception for that is Stephanie's section. We can give her an extra day or so because of the EPDP. But I don't think we have any options but to set it that tight.

All right, seeing no other hands, let's go on to the first part.

JEAN-BAPTISTE DEROULEZ: All right, since Cathrin is not yet on the call, shall we move directly to your [page], Alan?

ALAN GREENBERG: All right, which is which page? Oh, I didn't like the look of that.

JEAN-BAPTISTE DEROULEZ: Yeah, that's what I just saw.

ALAN GREENBERG: It came out okay on my screen when I looked. I guess people are going to have to pull up the PDF that you sent out if it isn't displaying properly.

JEAN-BAPTISTE DEROULEZ: Yeah.

ALAN GREENBERG: There were a couple of things that weren't displaying properly even on the PDF, but they were relatively minor. All right, on the Common Interface, the recommendation for 11.2, Jackie felt it was sort of run-on and a little bit confusing. I read it and I had to agree. So I took a stab yesterday at rewriting the recommendation. I don't believe the intent has been changed. Hopefully, the language is somewhat clearer.

The original version said, including typos: "The ICANN Board should direct the ICANN org to continue to maintain the common interface" ignoring the "o," I think that's "to" – "to keep [it] up to date with new policy developments or contractual changes for contracted parties to ensure that the common interface will display all publicly-available RDS (WHOIS) output for each gTLD domain name registration available from contracted parties, i.e., when they differ, both the registry and registrar RDS (WHOIS) output could be shown in parallel."

Once sentence. What I am proposing is: "The ICANN Board should direct the ICANN organization to ensure that the common interface displays all applicable output for each gTLD domain name registration as available from contracted parties, including multiple versions when the output from registry and registrar differ. The common interface should be updated to address any policy or contractual changes to maintain full functionality." One could add "in a timely manner," I guess.

Comments on this one, please. Silence is presumed to be agreement. Erika says okay with her. And I see Erika is now on the call. Thank you, Erika. I hadn't noticed you were here.

JEAN-BAPTISTE DEROULEZ: There is a hand raised from Susan.

ALAN GREENBERG: Susan, please go ahead.

SUSAN KAWAGUCHI: Thanks, Alan. And I apologize for being missing in action last week, but the flu knocked me for a loop last week.

This has been in there since day one I think, the differentiation [of] the output from the registry and registrar. But do they really show the...? They're not pinging the registry.

ALAN GREENBERG: No, that's not the case. For thick TLDs, they are only looking at the registry right now.

SUSAN KAWAGUCHI: Oh, okay. I'm confused then. Okay, then I don't have a problem.

ALAN GREENBERG: The registry is deemed to be the authoritative source for thick registries.

SUSAN KAWAGUCHI: Okay.

ALAN GREENBERG: So as an example, for AlanGreenberg.org, it shows everything redacted because PIR.org redacts everything. Whereas, my registrar does not, but it doesn't show.

SUSAN KAWAGUCHI: Interesting. Okay. I was not remembering that.

ALAN GREENBERG: Yeah, that part hasn't changed from the – I don't think that changed from the rewriting of the wording, but anyway.

SUSAN KAWAGUCHI: No, I agree with that too. I'm fine with the wording then.

ALAN GREENBERG: Okay. Anyone else have any comments? Otherwise, we'll deem to be accepted by the five people on this call. All right, let's go on to the next item then.

JEAN-BAPTISTE DEROULEZ: All right, Alan. So we'll share that version with the other review team members not attending the call just to let them know and have their approval.

ALAN GREENBERG: That's correct. Now since we're also doing some minor wording changes on some, we're probably going to have to early next week send out the full set of recommendations. But I agree. I think we should send this one out today saying it has been approved by the five people on this call. Does anyone else have a problem with it? And do we add "in a timely manner" or just leave it as is? I'm happy to leave it as is at this point. I don't see any comments.

Carlton, there is a – when they registered – Carlton, you're suggesting that we say, "including multiple versions when the output from registry and registrar differs"? I think with output, it should just be "differ." We'll leave it to Jackie the grammarian to fix that if necessary.

CARLTON SAMUELS: So you mean "outputs"?

ALAN GREENBERG: Either it should be "outputs" and "differs" or "output" and "differ," I think. But I'm happy to leave it to Jackie. Just let us know which way it goes, Jackie.

JACKIE TREIBER: I'll [inaudible], sure.

ALAN GREENBERG: Okay, you can check your reference books.

JACKIE TREIBER: Okay.

ALAN GREENBERG: Or make up an answer.

JACKIE TREIBER: Sounds good.

ALAN GREENBERG: All right, Jean-Baptiste, what is next?

JEAN-BAPTISTE DEROULEZ: Next is the [text] of [implemented] Recommendation Numbering.

ALAN GREENBERG: Okay. You will recall that there was a comment from the NCSG, I believe, saying the recommendation numbering in this report is confusing and we should have it relate to the recommendation numbers in the first WHOIS report. Now we, in fact, did that. So, for instance, our

Recommendation R5.2 relates to Recommendation 5 in the original report, or 5-9 in this case.

I tried to come up with a simple sentence to say that, and I'm not at all sure I've succeeded. What I ended up saying is, "Recommendation Rx.n are recommendations that follow up on Recommendation x of the first WHOIS Review. Recommendations LE.n, SG.n, CM.n, and BY.n are recommendations related to the new work done by the present review team under its investigations related to Law Enforcement, Safeguarding Registrant Data, Contractual Compliance, and the Bylaw governing Specific Reviews." And I think we need the word "respectively" at the end of that.

And there's a footnote when I make reference in the first line to recommendation x, the footnote says, "In the case of R5.n, R12.n, and R15.n, they are follow-up recommendations" – there should be an s there – "of the original R5-9, R12-14, and R15-16 respectively."

Now I won't claim this is simple, but I think it is accurate and I hope people can make some sense out of it. I would welcome anyone else doing something better, but that's what I came up with. I open the floor to it. I see no hands and I hear no voices. Erika is typing. Let's wait to see what they say but if anyone can speak, please do so. I see Cathrin has joined us. Welcome, Cathrin.

CATHRIN BAUER-BULST: Thank you very much, and apologies.

ALAN GREENBERG:

We do now have six people on the call, six team members.

“Can you please read it again, Alan?” Erika says. Yes, I will try to read it again. It makes reference to two algebraic unknowns, as it is. It starts off with, “Recommendation Rx.n” – actually, it should “recommendation numbers of the form Rx.n” – “are recommendations that follow up on Recommendation x of the first WHOIS Review. Recommendations LE.n, SG.n, CM.n, and BY.n are recommendations related to the new work done by the present review team under its investigations related to Law Enforcement, Safeguarding Registrant Data, Contractual Compliance, and the Bylaw governing Specific Reviews respectively.”

And there’s a footnote saying that for Recommendations “R5, R12, and R15, they are follow-up on the recommendations of the original R5-9, R12-14, and R15-16 respectively.”

This is all in the slide deck that Jean-Baptiste sent out a little while ago.

Okay, we’re going to assume that this is set in concrete at this point. So the changes are the beginning instead of saying “Recommendation Rx.n” it’s “Recommendation numbers of the form Rx.n.” And at the end, add “respectively” at the end of that sentence. And Jackie is adding something. I think the footnote is clear and helpful. Okay. All right, so let’s assume it’s right. If anyone has any edits, it shows up in two places. Once in the executive summary and once the first time we start talking about recommendations. So if you have any further comments, please put the comments in the document. Otherwise, we’ll assume it stands.

Cathrin is here. Perhaps we want to go back to the beginning and address Cathrin’s issues.

JEAN-BAPTISTE DEROULEZ: Yes, thank you, Alan. We'll use the occasion to reupload the slide deck to see if that solves the issue.

ALAN GREENBERG: Okay.

CATHRIN BAUER-BULST: All right, should I take it away?

ALAN GREENBERG: We're just making sure. The first time we looked at the slide deck, there were some pages that didn't render on Adobe Connect. Jean-Baptiste is verifying that they're okay. I believe he has verified now, so it's back to you. We're on Slide 5 on Recommendation 1: Strategic Priority. Cathrin, the floor is yours.

CATHRIN BAUER-BULST: All right, thank you very much, and apologies again for being so late. My meetings with my hierarchy as we like to call it got shifted around in between my note to say that I could only stay for 30 minutes and my note to say that I would be late. So luckily I can stay for more than the first 30 minutes. Thank you for bearing with me and apologies again.

So the first thing you see here on the slide is a result of a comment that Alan made and that I support on the text that was already in place where he pointed out that a sentence I had put in the implementation

part actually fit much better in the analysis part. Namely that while ICANN has tried to do its best to reflect the strategic priority given to RDS, the actual implementation of the priority that they did was focused more on compliance with existing WHOIS policy and on support for community processes rather than on advance planning. So I moved that sentence up. It's shown here as new text, but it is text that is taken from farther below in that same chapter and has simply been moved up from the implementation part to the analysis part so that it now supports our recommendations rather than explaining how those should be implemented.

ALAN GREENBERG: Thank you.

CATHRIN BAUER-BULST: Are there any comments or questions on this move?

ALAN GREENBERG: I'll only say what I said in writing there, that I thought this simple sentence was a rather astute analysis of what went wrong. So thank you for that.

CATHRIN BAUER-BULST: Thank you. Then I guess we can move on to the next slide, please.

ALAN GREENBERG: That's the one we've already talked about. Okay. A very busy slide.

CATHRIN BAUER-BULST: All right, so are you all on Slide 7 with me?

ALAN GREENBERG: I am.

CATHRIN BAUER-BULST: Yes, excellent. This is a change that was made in response to a comment from Dmitry about the fact that just looking at legislation may not be sufficient in having a forward-looking approach to WHOIS and potential policy changes around the world that can have an impact on the RDS.

So in the rationale to the recommendation, the recommendation itself was already quite open and says, “legislative and policy developments around the world.” So I didn’t see a need to actually change the recommendation itself but rather I responded to this comment by adding one sentence to the rationale, which you will see in pink here toward the bottom, to highlight that it is also important to “take into account relevant non-legislative developments, such as soft policy measures or guidance provided by authorities on the implementation of relevant legislation.”

So you will note that “such as” denotes examples, so it’s perfectly open. We have said in the rationale that other non-legislative developments should also be taken into account where relevant. So hopefully, that will provide enough guidance to ICANN in the implementation of this recommendation to keep its eyes open. In any case, I think the

motivation at ICANN to have a more forward-looking approach in the future is quite high given recent events.

So I've kept it short. I'd be grateful for your comments as to whether you think this meets Dmitry's comments in particular. Of course, Dmitry yourself, you might want to say whether this was what you were looking for. But, of course, questions or comments from anyone else are just as welcome.

ALAN GREENBERG: I don't see any hands. Dmitry is typing. We'll wait for him to finish. Dmitry says it's even wider than he was looking for, so I think that says it meets the target.

CATHRIN BAUER-BULST: Right. That's actually what I'm wondering, whether it's too wide now [inaudible] interpret that.

ALAN GREENBERG: Well, no. How can it be too wide? We're supposed to be keeping attention to what's going to affect us.

CATHRIN BAUER-BULST: Right.

ALAN GREENBERG: We're trying to predict right now what the sources of those things will be. It could well be court actions or something like that. That the courts decide that something is applicable. So don't think it can be too wide. I think that's fine.

CATHRIN BAUER-BULST: Okay, perfect. Well, if there are no other comments or questions on this, I will move on to the next one.

On Slide 8, you can see here first the change in pink is still the rationale change we just discussed. And then this is farther down, the text that is now crossed out in pink and highlighted in yellow.

Oh, I see Dmitry has now agreed with us that [it isn't]. Excellent. Thank you so much. So I guess that one, if nobody else is unhappy, that one we can close.

Now the text deleted in pink, [underlined] in yellow, that's the sentence that at Alan's behest we moved up from the rationale to the analysis to support the actual analysis that underpins our recommendation. So that's the one we already discussed.

And then there were a number of smaller updates that I made to take account of the fact that Chris informed us that there was no longer a board working group on RDS.

ALAN GREENBERG: Yes. Jean-Baptiste, go to 9, please.

CATHRIN BAUER-BULST: Oh, sorry. I thought I was scrolling for everyone.

ALAN GREENBERG: Okay, we're back.

CATHRIN BAUER-BULST: Okay, excellent. So now you will see a number of smaller changes to basically take account of the fact the RDS board working group no longer exists and that instead of asking for its mandate to be clarified and its work to be made more transparent, we now have to have somewhat more neutral language asking for the mandate of any such board working group to be clear and comprehensive for such a group to exist and for its work to be transparent. That's what I tried to change here in the implementation.

ALAN GREENBERG: I would recommend a very minor change of in the fourth-to-last line of implementation make "Working Group" lower case. Because whatever form their discussion group takes, it may not be a formal board working group in the context of the definition of a working group but may be a caucus or a something-or-other. So just making it lower case it's a generic instead of the specific thing called a working group.

CATHRIN BAUER-BULST: Right. I have absolutely no objection to that. I don't think anybody else will. I think that means we can move on to Slide 10, which actually has the recommendation that we're talking about. The Recommendation R1.3 which initially read: "The ICANN board should update the charter of its board working group." That has now been reformulated to include the fact that the board working group no longer exists, and now it says, "The ICANN board, in drafting the charter of a board working group on RDS, should ensure the necessary transparency of the group's work."

Here in the findings, I've adjusted the findings to the fact that the board working group no longer exists by referring to it as the previous board working group here and in a couple of additional instances.

Then I have updated a bit of text also in the implementation to reflect the fact that the board working group no longer exists.

And then here is another new sentence in pink that also responds to a specific comment from the review team that "the board should conduct its work in transparency and with the full involvement of the community rather than acting alone," which was also part of the feedback that we received during the face-to-face meeting.

So what you see here are changes to respond to two objectives. The first one, again, to update the text to the fact that the RDS board working group has been dissolved and then second to reflect this need for the board to not just do its own thing but rather to keep the community fully involved and apprised of its work.

Are there any comments or questions [inaudible]?

ALAN GREENBERG: Yeah, I have a couple. Again, “Working Group” should be lower case. My recollection is that Chris said that groups like caucus groups or other things do not necessarily have charters. And I’m wondering if we want to just leave “charter” and let them come back and say it doesn’t have a charter but we understand what you’re talking about. Or do we want to be more specific? I’m happy to leave the charter there and let them comment that the implementation will be slightly different than in the form of a charter.

CATHRIN BAUER-BULST: Right. Thank you, Alan. I actually did think about that, and that was part of what we took issue with, with the previous board working group, that it didn’t exist by name but there was nothing to hold it accountable to. So there was no explicit paper setting out what it was supposed to do, so it was impossible to judge whether it had done its work. And there also were absolutely no standards set for how that work would be conducted, which for an issue of this impact of course has a sort of negative impact on the transparency of the work because there was no obligation to keep minutes or to even have a summary of meetings or any kind of record of what was happening.

ALAN GREENBERG: Okay, yeah, thank you. I think Chris acknowledged that, yes, they could do this going forward. I’m happy to leave the word “charter.” And if they come back and say it’s going to take some other form, that’s fine.

I'm going to have to go offline for a second. I'll be back as quickly as I can.

CATHRIN BAUER-BULST: I see, Jean-Baptiste, you have your hand raised. Please go ahead. Sorry. Oh, and I don't know. I can't hear Jean-Baptiste. But if it's to read Carlton's comment into the record [inaudible].

JEAN-BAPTISTE DEROULEZ: Oh, yes. Sorry, I was on mute. Yes, that was to read Carlton's comments. And I see that they are directed to Alan, so we may want to wait for it.

ALAN GREENBERG: Sorry. I'm back.

JEAN-BAPTISTE DEROULEZ: Oh, perfect. Yes, Alan, I just wanted to read out Carlton's comments which were directed to you where he says, "It is precisely why I think any reference to working group is a tad too specific. It could be a caucus or a commission or a [staff] group specifically chartered by the board. So saying board action should be enough." And that's it.

ALAN GREENBERG: Yeah, thank you, Carlton. I think that's addressed by using lower case working group. But again, if the board comes back and says we are not going to do a working group, we're going to do a caucus or we're going to do an X, I don't think anyone is going to deem that to be not

implemented. So just in keeping the language simple. Now you're saying board action, and I'm not quite sure where you mean. Where that phrase is used that you want us to say it's sufficient, that you think it's sufficient.

CATHRIN BAUER-BULST: Well, I think also one of the ideas was that I would put to the front in order to argue for a more formalized structure is that we're trying to create accountability for the strategic priority given to WHOIS. Because that accountability is missing. We have a strategic plan [where it's] some lower-case priority in some area where it doesn't fit with [inaudible] resources. I'm exaggerating for the sake of argument. And then there's nothing to actually tell us how this is lived as a strategic priority, especially now the group has been dissolved.

So I would argue in favor of asking for a more formalized – I mean, we can just call it working group – but for something that has a document describing what it is supposed to do. And then we go to the actual discussion with the ICANN board about how that could be implemented in practice. If we just replace board working group with board action, I'm not sure whether that has the same ring to it because it wouldn't be clear what the charter for any board action would mean. But I'm open to [inaudible] something, but I think there should be a formalized something in place as a conclusion of our discussions thus far.

ALAN GREENBERG: Yeah, thank you, Cathrin. I tend to agree with you, although I believe it should be lower case working group. Board action sounds like it's talking

about a single, one-time action as opposed to a board decision to do something on an ongoing basis. So I would tend to agree that what you have right now is sufficient for the message we're trying to send. And if they want to use different words, they can certainly do that.

CATHRIN BAUER-BULST: Okay, are there any other comments or questions on these rewordings that actually reflect two objectives, as I set out. One is the fact that the group no longer exists and, secondly, to reflect the need for transparency and full community involvement. Oh, and I see that Carlton says, "I disagree that board action is a one-time thing, but it's not important enough to object." So the working group in lower case seems to be a compromise that most everyone can agree to.

ALAN GREENBERG: Certainly good enough for this pass. If we can refine it in the final editing, we will. But I think this is fine.

CATHRIN BAUER-BULST: Okay, so that would close the Strategic Priority bit. I note that the main change is to substitute "Working Group" with "working group" lower case. And that brings us to the end of Strategic Priority.

On to Subgroup 3: Law Enforcement Needs. Here, you see some edits that were, thankfully, provided by Jackie to make sure that we use the active voice and avoid run-on sentences. But the key part that we're looking at here is the clarification of what "regular" means and including the rationale. So the topics that I brought up at the face-to-face meeting

as examples were the possibly to perform ex-ante impact assessments which basically allow you to get the guestimate impact of a new policy while you're considering various options for that policy. And then secondly, the post [inaudible] evaluate of such policies which basically allows you to assess what the actual impact has been of a certain policy which helps you consider whether there's a need to reform it or learn from it for future policy development.

So with that in mind, I've updated the rationale by adding one paragraph which basically reads, "In terms of defining what would constitute a 'regular' basis, it would be useful at minimum to repeat the survey and/or conduct studies (as appropriate) at least ahead of every review team exercise. Consideration should also be given to running such survey and study exercises to a) provide an ex-ante impact assessment if new measures are considered or b) evaluate new policies one they have been in place for a while."

So you will note that I kept this still fairly open in terms of how often such studies or surveys have to be run but set a sort of bottom limit of every five years when there is a new review team exercise happening. And I have also suggested that we encourage ICANN to run these exercises also when needed for policy development, both ahead of the development of the policies to help assess its potential impact and then also once the policy has been put into place to evaluate whether it actually does what it should.

And something that comes to mind is, for example, the safeguards for new gTLDs which the Consumer Trust and Competition review team reviewed. Those are the kinds of policies that very much benefit from

somebody looking at them just like the RDS will no doubt do once it has been agreed.

What do you guys think of this level of definition versus abstraction? Do we need to be more prescriptive? Is this sufficiently open? Does it meet what you thought of when you made the suggestion? I see Alan has his hand raised. Please go ahead.

ALAN GREENBERG:

Thank you. I like this. I would make comments or questions. The easy one is I believe at the bottom where it has “a” and “b” that it should be either an “and” instead of an “or” or an “and/or.” But I think it’s reasonable to both conduct an impact assessment and then evaluate whether it really did what it’s supposed to, so I would suggest “and.” But if there’s reluctance to put “and,” then I would put “and/or.” That’s comment number one.

Number two is, do we want to add some level of emphasis – and I’m not sure stylistically what the right way to do that is – to the “at minimum”? I guess I’d ask Jackie, is there a way to do that, that’s not stylistically improper? If it was me, I would put it in caps or bold or underline. But I’m not quite sure. I think it’s important to say we can accept once every five years, but really we need to pay more attention than that.

And that’s it for me.

JACKIE TREIBER: Alan, I'm sorry. I was multitasking with Jean-Baptiste. Which portion of this highlighted section were you wanting to give more attention to stylistically?

ALAN GREENBERG: The words "at minimum," [inaudible] the phrase "at minimum" [inaudible].

JACKIE TREIBER: Sorry, you were muffled. [inaudible] minimum.

ALAN GREENBERG: I'm suggesting that if there is an easy way to emphasize the "at minimum," i.e., caps, underline, italics, bold, whatever the appropriate stylistic way is, I would support that. The other comment was for Cathrin to replace the "or" at the end of the fourth sentence with either "and" or "and/or."

CATHRIN BAUER-BULST: That actually is the intention so, you're right, it's not clear enough and I fully agree with you. So an "and" would be – "and/or" would be helpful.

ALAN GREENBERG: Choose which.

CATHRIN BAUER-BULST: Maybe we should just drop the "or."

ALAN GREENBERG: Ah, okay. Since it's an "a" and "b," dropping it altogether makes it an "and." That's fine. I agree.

CATHRIN BAUER-BULST: Well, I mean dropping the "or" and replacing it with an "and." Sorry.

ALAN GREENBERG: Oh, okay. That's simpler, so let's make it really clear. So we'll replace the word "or" at the end of the fourth line with "and." And, Jackie, if you can find a way – if Cathrin doesn't object – to emphasize "at minimum."

JACKIE TREIBER: Sounds good. I can do that.

CATHRIN BAUER-BULST: [inaudible] I'm actually wondering whether there is a need to ask for more regular surveys and studies. But there were also others on the team who rightfully raised the issue of resources.

ALAN GREENBERG: Yeah.

CATHRIN BAUER-BULST: And I think there was an action item ongoing to estimate the workload on the MSSl colleagues to conduct this exercise. So it would be helpful

to inform the organization, the community of the expenses of this. I always find surveys to be fairly low-priced for the organization that runs them because the work is done basically by those who respond, and then you do a bit of evaluation of the responses or analysis. But studies, of course, is a different issue or it is an issue altogether and can be quite pricey.

ALAN GREENBERG:

Yeah, the MSSl costs in this case I don't think apply going forward because in this case there was a lot of volunteer effort. In the future, it would be some other part of ICANN, not necessarily MSSl, and they would bear the full cost. So I'm not sure the MSSl costs are relevant in this discussion.

But, yes, there was pushback and "before each review team" was the compromise. I'm just suggesting that if we can point out that ICANN org or the board should consider whether it's being done more often. And I suggested adding some emphasis but if that's objectionable to people, then I'm not going to fight it.

CATHRIN BAUER-BULST:

No, I definitely support it.

ALAN GREENBERG:

Okay, then we can move on at this point. Where are we next?

JEAN-BAPTISTE DEROULEZ: We are now on Recommendation 4: Compliance with the paragraph that you had added on the possible impact of GDPR and other applicable laws.

ALAN GREENBERG: Oh, okay. Yeah, there was a section at the end of compliance on impact of GDPR. It was to be completed, so I drafted something. What I have here is, "It is currently unclear to what extent Contractual Compliance will have access to RDS (WHOIS) information nor what procedures it may have to follow to gain such access. Depending on the final GDPR implementation, the ability of Contractual Compliance to address issues that it did prior to GDPR may be affected and/or the amount of resources (time and staff) required may increase, perhaps substantially."

This sentence is perhaps not eloquently worded but I think conveys the intent, and Jackie may find some ways to make the sentence read better. Does this convey the statement that we're trying to say? Saying we don't really know what the impact of GDPR is, but it may be very substantial. The implementations range from based on their IP address and such Compliance may end up having the same access they had right before, obviously using a slightly different tool. Or they may be in a position where they have to ask each registrar one-by-one for information and wait for it to come back. So we're talking about very, very different implementations which will have significant impact. Cathrin?

CATHRIN BAUER-BULST: Yes, thank you, Alan. I think this is a key issue, and I fully agree with it being explained here. And I think it might even deserve a bit more text explaining exactly what you just set out. Namely, that the range of possible issues can range from having ICANN as part of – I don't know how they would do it – [by] listed IP addresses down to having to ask for permission to access every single record that they need for their investigation. In particular when it comes to having to ask those entities that they're supposed to also ensuring the compliance of, I see some major issues with that.

So I think it would benefit from – because here it's still phrased in a very abstract way and it doesn't actually, to my mind or at least as a non-native naïve reader, does not yet reflect the actual significant impact that might be associated with that. So maybe illustrating it a bit more would be helpful. And also if there is information available on what's happening now since they already have implemented GDPR, it would be extremely helpful to cite that example. So [inaudible] to say about what they do now? Do they still have access?

ALAN GREENBERG: No. Right now they are asking each time.

CATHRIN BAUER-BULST: Well then, I think we should say that. I think we should say as of the moment ICANN Compliance has to ask the entities whose compliance it is ensuring for access to the records that it needs to make sure that compliance is happening.

ALAN GREENBERG: So they're relying on the good will, essentially, or compliance of an organization in order to verify its compliance.

CATHRIN BAUER-BULST: Yes.

ALAN GREENBERG: All right.

CATHRIN BAUER-BULST: Well, that's what's happening, right? I think we should explain that. And that brings to mind one more issue that we need to include, which I think should be included which I submit for your consideration. That is the issue of the DAAR, a tool that is supposed to create transparency around compliance by highlighting where abuse is happening without necessarily naming and shaming but at least by making available statistics on issues. And apparently that tool which is also provided by ICANN also no longer has access to the WHOIS information. So maybe that is something we can put a sentence on here as well, if that is a good fit.

ALAN GREENBERG: Okay, thank you, Cathrin. Susan noted that in the first line the word "with" should be "will." That's just a typo. How does this sound? If we add a paragraph prior to this talking about the current situation, in

other words saying what is happening right now, and pointing out the paradox of relying on someone's good will to find out if, indeed, they're doing it properly. I'm not quite sure how to word that, but I'll try to come up with something. And then add at the end of the paragraph that's already on the screen the implication of if we still need to rely on that, then [it] brings into question whether we can really verify compliance. Does that sound reasonable? I see Jean-Baptiste is documenting it. Hearing no negative comments, I'll take that as an action item.

JEAN-BAPTISTE DEROULEZ: Sorry. You said add a sentence on how compliance can be verified?

ALAN GREENBERG: On whether Contractual Compliance can verify compliance if they can't look at the data. If you ask me for data that I know is invalid, I could send you something different and there's no way that Contractual Compliance could verify that.

JEAN-BAPTISTE DEROULEZ: Thank you.

ALAN GREENBERG: All right, next page. And that was it. All right, to summarize. Sorry, Jean-Baptiste, before we go ahead if I can summarize what was said before a number of people got on the call in terms of timing going forward. It's quite clear at this point we are not going to make our January 31

deadline, but we're going to have to be very, very close to that or as close as we possibly can.

I've done a review of about half of the document and will finish that before the end of today in terms of accepting Jackie's changes that are largely editorial. In places where I think the intent may have changed, I'm adding comments. I'll be finished that by the end of the day.

I will be in an EPDP meeting for the rest of the week, so I think we need to take that four-day gap and pretty much everyone else – and Stephanie is the exception because she'll be in that meeting also – but other than that, I believe everyone else needs to at the very least go over the sections that they led and preferably the sections that they participated in and go over it with a fine-toothed comb looking for errors, inconsistencies, and as important duplications and replications.

We've determined that for this report we will do our best not to repeat the same things over and over again but make sure that they're said clearly. And that's not something Jackie can do on her own. It really needs the content specialists to look at that. So I would ask everyone for the sections you either led or participated in by the end of Friday to review with some care those sections and either make suggested changes or comments as to what can be done to clean it up.

And then Jackie and I will do a really thorough pass the week after that. And we'll have a meeting next Monday and hopefully Jean-Baptiste will be able to call out again a good number of places where there have been changes that we need to discuss or whether there are questions [that] have been raised.

And, Jean-Baptiste, thank you very much for extracting these random sections from within the document that needed our attention. I appreciate the effort you took.

JEAN-BAPTISTE DEROULEZ: You're welcome. And I just wanted to jump on what you have just said about the meeting next week. It was brought to my attention that some review team members have a public holiday in the United States, so I just wanted to check whether that would be an issue or not for the plenary call next week.

ALAN GREENBERG: I don't think we have an awful lot of U.S. people on our call, on our team. We have Susan. What holiday is it, by the way?

JEAN-BAPTISTE DEROULEZ: Martin Luther King Day, I believe.

ALAN GREENBERG: Martin Luther King Day, ah, okay. So the only people that are affected are Susan, Erika if she happens to be in the U.S. Thomas has not joined our calls in general so it's not relevant. So it only affects Susan. Susan, is this a major issue for you?

SUSAN KAWAGUCHI: No, I'm fine. [It] was probably a meeting [inaudible].

ALAN GREENBERG: Then we're okay to go.

JEAN-BAPTISTE DEROULEZ: All right. Carlton, I know you're an American, but you don't tend to live there. If you celebrate Martin Luther King Day wherever you are, please say so. And Erika says she is in the U.S., but she's fine to go with it. Jackie, you're in the U.S. also. Sorry. I forgot about you. Is that an issue?

JACKIE TREIBER: [inaudible] that day, but the call here is quite early for me so I don't think you'll interrupt any of that so I'm good to go.

ALAN GREENBERG: Okay, thank you. All right, so Monday is not an issue. Back to you, Jean-Baptiste, and any other business, if there is any other business.

JEAN-BAPTISTE DEROULEZ: That was the only thing I wanted to raise under AOB, so thank you.

ALAN GREENBERG: All right then, I please earnestly request that everyone look at their parts. In the case of consumer trust, I owe Erika something which I will do my best to get out by the end of the day. I apologize to Erika for not having done that. Jean-Baptiste, your hand is up.

JEAN-BAPTISTE DEROULEZ: Sorry, that's an old hand. But would you like me to go through the action items and decisions reached?

ALAN GREENBERG: Yes, please.

JEAN-BAPTISTE DEROULEZ: All right, so I'll start with the action items. Under the action items, as you just mentioned, review team members will have until the end of this week, except for Stephanie, to review their sections, look for errors, inconsistencies, and confirm that the section is consistent and tight. If not, come up with suggestions as to how they can be cleaned up.

The review team updates. On Recommendation 11, the recommendation numbering, and Recommendation 1: Strategic Priority were okay by the members present today. They will be recirculated to see whether there are any concerns.

On Recommendation 1.1, 1.2, and 1.3 we changed the wording of "Working Group" and removed the capital letters.

For Subgroup 3: Law Enforcement Needs, Jackie will emphasize the "at minimum" sentence in rationale and replace the "or" at the end of the fourth line with an "and."

And for Recommendation 4: Compliance, Alan will add a paragraph on the current situation pointing out the paradox of good will versus doing it properly and add a sentence on whether Contractual Compliance can verify compliance if they can't look at the data.

Under decisions reached, there is an agreement from members in attendance with rationale for Recommendation 1.1 and 1.2. And the plenary call is confirmed next week, and the updates from each subject matter expert will be presented.

ALAN GREENBERG: Excellent. Any further comments from anyone? Then this meeting is called to an end. Thank you all.

[END OF TRANSCRIPTION]