

20120430_WHOIS_POLICY_RT_ID692257

Peter Nettlefold: We contributed to the agenda and we've got staff waiting, how about we get started? Any objections to starting off?

Susan Kawaguchi: No.

Peter Nettlefold: No, okay. So just looking at the agenda that Alice circulated around, we've got adopt agenda. Has everyone got the agenda in front of them? And if so, does anyone object to adopting that agenda?

Alice Jansen: Alice here. Just to note that the call is being recorded. Just for your information.

Peter Nettlefold: Thank you, Alice. Okay then. Well, item three on the agenda is to discuss a number of listed RAA sections relating to the accuracy of Whois information. And are you okay to start the ball rolling on those, Susan?

Susan Kawaguchi: Yes, definitely. So obviously you know this language better than I, most of you on the phone. And but I am concerned as part of the Whois review team and just my extensive use of the Whois record and what I see in the Whois record that although there's language that backs up the requirement and responsibility to provide accurate and available Whois records, that's not what's happening.

So and we sort of got into this the last call with staff. When I read this language, I think I'm reading it much broader than how it is actually effected and put into effect and utilized to get the registrars to do what they should be doing. I think we all agree that we want an accurate Whois record, but when I read 3.3.1 it says, I'm not going to read the whole thing to you because you're all familiar with it, but access to up-to-date data concerning all active registered names.

So when you read this whole paragraph, to me it implies an obligation to provide accurate data, but the registrars, as we all know, are not doing that. The registrants, they're not making the registrants. So 3.3.1 I'm concerned with because there's an implied obligation there, but no one's held to that obligation.

And then if we move to 3.7.2, which just gives more of an obligation to the registrars, they shall abide by applicable laws and government regulations. And I was wondering if ICANN staff has ever looked at the laws and asserted those local laws or allowed a third party through ICANN's actions to assert local laws that require accurate information when doing business. So that was a question if nobody got that. So I was wondering if have you ever looked at beyond the wording, "the registrar shall abide by applicable laws and governmental regulations?" If you've looked at local laws and asserted those laws to ensure that a registrar provides accurate information. Or a registrant, for that matter.

Daniel Halloran:

Hi Susan. This is Daniel Halloran from ICANN. Thanks for having us on the call again. It's good to talk with you about this stuff again. We're going to try and answer and have it be as helpful and productive as we can, just keep in mind that we're a little bit limited. We had not too much time to see in advance like these particular questions. So on some of them we might want to be able to follow up with you later and provide more details. Or I think we'd even be happy over the next two days or whatever if it's helpful to you to be available by phone or by email to get more into the details of things. Because on some of them too we need to like stop, maybe consult with each other, look back at our precedent, see what we've put in past breach notices or something.

And I also want to just in the -- we have caveats, but one other caveat on this and I think I understand this call is being recorded and is being transcribed, so this is sort of on the record. And this stuff that we say now would be ICANN's pronouncements. And we don't want to say something now that might weaken us, let's say, if we ever get into a dispute with a registrar about how a particular provision should be enforced. We don't want to have ICANN on the record saying something like, oh no, registrars don't have to do this or don't have to do that. We usually want to keep as much of that power and ability -- flexibility as we can and not limit ourselves by making pronouncements, especially on the fly kind of ad libbed pronouncements about how we interpret certain provisions.

So that's just all in the way of caveats, but then I do want to, to the extent we can, kind of informally on the phone, we're happy to walk through these provisions and either say we'll take it on notice and get back to you, whether that'll be within the next few days or if we can, give you some kind of impression about what we're looking at.

So, just rewinding a little bit, I think you started with RAA 3.3.1. And so just as a starting point to me, that's the cornerstone kind of -- that is the provision that says registrars must provide Whois service. But for this one, this is the section that says registrars have to have Whois service and it says registrars have got to pay for it, it's at their expense and it has to be both a website and a port 43 Whois. And it has to be up-to-date data, they can't let it get stale and get old. They have to update it at least daily. And it has to cover all the names that are sponsored by the registrar and it has to have all the following elements.

So, I mean that's just as a starting point. We interpret it to mean exactly what it says and we would enforce every word. We use this provision a lot in cases where a registrar either does not have a Whois service up or it's unreliable or we're seeing outages, we would say you're in breach of 3.3.1. You don't have a Whois service up. But that's the starting point. And then we're happy to talk more about what you're reading the implication into that. But that's -- I mean as I guess you're saying, it's not -- on its face it doesn't say what you're saying. You're saying it's implied. So we'd like to hear what -- your implication that you're seeing in there.

Susan Kawaguchi:

Well, I'm just seeing access to up-to-date information. Now if you take that and read that very narrowly, you're going to just take whatever information is in that Whois record and continue to provide it. But, if you read this a little more broadly and something in a way that would benefit the community, which is all Internet users in my opinion, then there is an implied obligation to provide accurate info. So the providing -- repeatedly providing inaccurate, patently false information that anybody could recognize as false, I'm not talking about actual good information that just doesn't happen to be accurate for that record. But something that is -- that we've all seen and we showed at one of -- and I've got some examples that I could show you, but where all the fields are basically X's or A's. One A was one of the examples, or I've got one here that there's multiple X's.

If a registrar is providing that on a continual basis, there's somewhere they've already -- if they've received payment, they have actual data. But they're knowingly supplying patently false information. I think that they are in violation of 3.3.1. So maybe it's an implied obligation but anybody that's reasonably reading this and knows what the Whois

is expected to do then would say yes, all X's in a domain registration, not one bit of good information except maybe servers and email address, that is not accurate information. That's not a fully accurate Whois record.

And that shouldn't be continued to be served up. They should be out of compliance with 3.3.1, if that's what they're doing. And I see that on a routine basis. So I think you could assert the 3.3.1 against those registrars that refuse to do anything. And even once they were put on notice that this is inaccurate information, continually to serve the inaccurate information.

So that's my viewpoint on it. Obviously you have your own, but we need your help. The community needs your help. The Whois review team needs your help to review. Not just go negotiate new language, which takes a long, long time, but to review your existing language in your existing contract to take action against those registrars and registrants that are playing your system. Because it's just playing into the fraud aspect of all of this.

So, Alice, if you've had a -- if you can, if you could put up the group-Facebook.com Whois record?

- Peter Nettlefold: Could I just ask a question, Susan, just to sort of clarify from my end? I've just been flicking through the RAA while you've speaking of the provisions which you've highlighted.
- Susan Kawaguchi: Um-hmm.
- Peter Nettlefold: And it's -- to my reading, the other provisions, the 3.7 dot dot provisions are about investigating inaccuracies once they've been reported.
- Susan Kawaguchi: Right.
- Peter Nettlefold: (Inaudible) at a very broad level. And this 3.3.1 provision, you're saying -- I'm just -- I'll paraphrase, but I may get it wrong. But here's the question. Is there in fact an affirmative or a proactive type aspect that ICANN should be looking at? In that instead of waiting for people to report inaccuracies and then registrars doing best endeavors to do something about it, that in fact it's a continual provision of patently inaccurate data is something that should be picked up very early and proactively dealt with.
- Susan Kawaguchi: Yes, that's -- you've stated it much better than I could have probably, but yes. And I just - what my whole point of -- I think 3.7.8 is the one, the provision that really speaks to all of this. But my point is that we all need to work together on this. We all are asking ICANN to improve compliance, improve on their enforcement of the contract. And let's use every bit of this contract. And if we look at it in a different light, that I think you'd have more language and ability to enforce some changes within the Whois record and registrar and registrant behavior than if simply saying oh, no, we turned over your inaccuracy report, but we have no idea what happened. And that's what we're seeing.
- So I mean I could go through each of these. I have ideas on each of these. 3.7.7.2, if you look at that it says that if it's inaccurate or unreliable is a willful failure to promptly update the information within 15 calendar days. But -- and my computer just went into hold pattern here. But if you look at that domain registration that Alice put up, I reported that last summer. And I attested to the fact that that was fake, false, patently false, blatantly false, completely false, however you want to term that, information. I am the only person that registers domain names for Facebook. I did not register this domain. Facebook at SB dot com is not an email address we have ever used for a domain name. And it's hosted on servers in Iran dot IR and everything else. The servers are probably correct.

Now I reported that. This information is out there, it's been out there since last summer. The best I could do was get this domain name suspended. So it was suspended, but this false information that is my company's information, is out there.

Now the only reason I'm giving you a Facebook example is because that's what I live and breathe. But I'm sure I could go to any major company in the US at least and find this same issue, a patently false information, fraudulently false information being used. Now this is correct information, but once it's reported under 3.7.7.2, the domain doesn't get deleted and nothing goes on except the only result you can get is a suspended registration. Not a deleted.

Now, for all I know, this was used for major fraud. And but my information is still there. So if anybody researching would think, oh, Facebook did this. So that's an issue for our company. That's an issue for other registrants.

- Daniel Halloran: Susan, this is Dan at ICANN again. Thanks for this example. So I'm looking at the Whois. We're talking about the same domain group dash Facebook dot com?
- Susan Kawaguchi: Um-hmm.
- Daniel Halloran: As of right now, today, it's in a redemption period. And we'll look into the history of it and -- but this name -- by redemption period, that means it was deleted and is now sitting in a redemption period. So --
- Susan Kawaguchi: Yes, it went in --
- Daniel Halloran: -- it's getting resolved. So what we're talking about --
- Susan Kawaguchi: -- April 20th.
- Daniel Halloran: So there's --
- Susan Kawaguchi: But from June -- from July to April it was sitting out there with all of my information on it.
- Daniel Halloran: But it was deactivated.
- Susan Kawaguchi: It was suspended, yes. So you could not use it.
- Daniel Halloran: So there is kind of an interesting policy question about when a registrar does -- let's say there's fake data. Whether it corresponds to -- you're saying this -- in this case, this is all accurate data for Facebook, Inc., it just was not a real registration that you guys made. So this might have passed if the registrar had a filter that looked for is there really a Palo Alto in California? Is that the zip code? Is there a company there? It might have passed all those checks if they had them. We don't know.
- Susan Kawaguchi: Yes.
- Daniel Halloran: But in this case, for whatever reason they eventually deleted the name. And then there's a question, I don't think the RAA right now, it is not prescribed to exact detail what they're supposed to do like, in terms of suspending it or deleting it. When they have to delete it, when they should suspend it. And then what they should do with the Whois data afterwards.

I don't know. Maybe it would be interesting to talk to registrars or get, I don't know, talk to. You guys have Jean Speidel on your team. And get from them what do you do if you're a registrar and you shut down a domain because the data is inaccurate, should you then expunge the data and hide it or should you leave it up there as a sort of record and

there might have been a court order saying freeze this domain and then their kind of -- their hands are tied. They can't clean it up. Even though the data is inaccurate, their hands are tied, they can't update it.

So I think registrars do have that issue. And it would be good to -- I mean you can always open all these little cans of worms and sub issues, but it would be good at some point to get some community discussion on what are best practices for a registrar to handle a case like that and what do you do if you delete the name because it's fraudulent? Should you leave the Whois there? Should you take it down? Should they say this domain was deleted and make that the only Whois data? But then would they be hiding information that might be relevant to law enforcement or something? So there's some interesting questions there.

Susan Kawaguchi: Well, I mean the Whois history is always available. So this would always be in the Whois history, like at the main tools. So, but that doesn't -- the information being in the registration, I didn't register this domain name. I could have created -- I had IT create that Facebook at SB dot com email address and captured the domain name, but that's a lot of work for how many -- I run into these on a weekly basis. And I think it's ICANN's responsibility that if you have this provision that you're enforcing that provision. So it went way beyond 15 days that this domain -- after I reported it last July. So this is just one example. But I think if we don't look at examples you don't know the heartburn we're having. And I don't -- and unless we discuss it, I don't understand why you can't take any action. I mean in this case on these -- all these inaccurate reports, how many are actually cancelled?

Daniel Halloran: And if we have --

Bill Smith: Bill Smith. If I could jump in here. I mean I think having the specifics as you're discussing it is of some interest. But for me listening to this, the general issue is that in the contracts the way that things are -- as I see it drawn up, the registrant has the obligation to provide the accurate information. The registrar has the obligation to serve that information. And they also have an obligation to serve current information.

And if they get a notification -- a notice that the information is incorrect and they send a notice out to the registrant and get nothing back, I think that's a good case can be made that that name needs to be put into some kind of suspended state or something. Looking at a domain name with all X's or A's or I's or patently false stuff or in Susan's case, this is pretty obvious. Okay? The registrant has an obligation to provide accurate information, the registrar has an obligation to provide accurate information by association. And that's just not happening.

There are far too many cases of patently false information being provided at the point of registration and then it continues to be offered, even after it is pointed out. And we have - - there is nothing else -- no other place that anyone can go, except to ICANN to say this is false. And then it falls between the cracks. And I think that is what we are attempting to point out here. And we believe -- actually many of us on the review team believe that the contracts already provide mechanisms for ICANN to do something.

Susan Kawaguchi: Exactly.

Bill Smith: Just follow the thread.

Susan Kawaguchi: Well, in 3.7.8 is exactly where the language lies, but I think if you put all of these sections together, you have a strong argument with the registrars and registrants. And I'm not going to read that one to you either, but it ends -- except that it ends in, "it shall take reasonable steps to correct the inaccuracy." I'm not seeing that happen at all, there's no reasonable steps. It's, oh the registrant said it was accurate information. Well, no, I told you it was inaccurate because in this case I could attest to that. And I don't think -- this

guy didn't respond, but I've had other cases where registrants actually respond and say no, I am Facebook. And I'm like, no you're not.

So, you can see the issues, but if you took all of these different sections together, I think you have a strong argument that the registrars have agreed to provide accurate information. Now how they go about that, that's really not my -- or the Whois review team's responsibility to lay that out. But we are asking ICANN to enforce the provisions of the existing contract.

Bill Smith: This is Bill. And Susan, I agree with that. I think there are enough pieces in the contract, right, to enforce. For ICANN to say it to registrars, you have to have accurate information. And the registrants are obligated to provide it. And if they don't provide it and they won't correct it, then some other action needs to be taken. We can't leave this up in this state for years and years. And literally that's what's going on. And it is getting worse.

Daniel Halloran: This is Dan. Thanks again for the perspective. So I think this is -- I'm very interested and we don't have in front of us all the statistics and the backup for what is it and what is the problem. Is it getting worse? Is it getting better? This one example that I'm looking at is an interesting one to be -- that we're all looking at. It's stated that on its face, plausibly accurate data, Facebook, Inc., Palo Alto. It's not the kind of all blank or all S's. And this is another case where it appears the registrar had deleted the name. And we'll have to look into how long it took.

And I totally agree with you about there should be a response from ICANN, a response from the registrars and that's stuff that's within our powers to make sure we're following up on these reports, the registrants are following up, the registrars are properly prosecuting them. And we do have resources dedicated to that and we can talk with the compliance team. Maggie's here about what resources we have and what more resources we can bring to bear to make sure we hold registrars' feet to the fire to make sure they're following up on those reported inaccuracies and doing the right thing, which in many cases ends up if there is false data supplied by the registrant, it'll end up in a cancellation of registration, like this one that Susan's pointed out to us here.

So, but that's all just on the current point. And then you guys have shifted to what ICANN should be doing and I think we're in agreement with you. On the forward-looking stuff, we're in negotiations with registrars now on what more registrars can do to be good registrars and to actively police things, verify data at the time of registration, et cetera.

Speaker: So for the example we're looking at right now, what we want to talk to you about and what the recommendation in your report might be is about what specification should be developed or what policy should be developed so that registrars are obligated to look at that information and do verification or authentication at the time of registration. And so, there's a whole scale, a whole range of different models of verification or authentication that could take place.

So for example, in the first draft of your report, you talk about improving by 50% the accuracy of or the correction of undeliverable addresses. But the example we're talking about really is a step beyond that. I was hoping some of what we could talk about here was what that recommendation could be to really effect the kind of change you are looking at. So not just correct or improve by 50% the accuracy of undeliverable addresses or the correction of undeliverable addresses, but rather correct Whois accuracy in total so that we can address the kind of issues that Susan's talking about here.

So how can this review team urge a change to the RAA? Or if there were negotiation? Or through the adoption of a policy that really asks for more than just that 50% number of undeliverable addresses. How can this review team ask for a change that results in a real increase of Whois accuracy across-the-board?

Peter Nettlefold:

It's Peter here. If I may, I may take a first stab at that. And it's a very useful question I guess, and maybe I'll paraphrase it. Is the thinking in staff that the recommendation as it's currently drafted isn't as useful as it could be? Perhaps I'll sort of say a little bit more and then perhaps see if you can come back to that.

So that way our thinking was and has been all along not to dive into the detail of a policy making process, which we are somewhat ill equipped and arguably not empowered to get involved in. We've heard from many fronts and people within the review team talking about what the role of these AOC review teams is. And it seems relatively clear whatever else we are, we are probably not a policy making body in the sense of policy as it's defined within ICANN.

So we've been quite mindful of that. But at the same time, we've also tried to give recommendations, which are meaningful and can give some guidance to ICANN and the things that it has control other than organization. And to other parts of the community in terms of what may be developed as policies.

So rather than diving into the details of whether there should be upfront validation or verification or -- and along what lines, we've said the goal should be to address the very inaccurate data and to achieve substantial rolling increases in that data. And to assist with monitoring that. We'd like to see annual studies, which provide good statistically reliable information along which we can -- so the community and ICANN can track those improvements and see whether what they've been doing in trying to achieve those improvements in accuracy are working.

So I'm very mindful that there are negotiations going on on the RAA, particularly about consolidation verification. You've probably heard me speaking at GAC meetings on that same issue and it's dear to my heart. But I think it's clear to me from the discussions we've had within the review team that the review team itself is not going to go into that level of detail. In our view, the goal is accurate Whois data and ICANN compliance and the people who negotiate ICANN contracts and people who do policy development are the appropriate avenues to making that happen.

And we've got some ideas obviously and we've shared some of those already. But in terms of a recommendation, I think you will see the same sort of accuracy recommendations as were in the draft, if that clarifies.

Bill Smith:

This is Bill. If I could, it's quiet in the airport right now. I think the contract already contains mechanisms for ICANN to have far better accuracy. I think that's what we're trying to say here today. You have the mechanisms, you need to go and enforce it.

In terms of additional things, you could look at what we are suggesting in our report in terms of the unreachables is something that is -- they're the lowest hanging fruit and easiest to measure. And part of the reason we put it in there. It should be a relatively easy thing to do.

And if ICANN the corporation and ICANN the community wants to go further, I can tell you that the review team is going to be supportive of that. We may not each individually agree with each thing that might be done, but we are in support of accurate information.

So, I don't -- certainly don't see it as an upper bound. This is a lower bound. (Inaudible) these things at minimum.

And one other comment is that Dan, you've reported back that some of us have said things that ICANN should be doing, as if it were looking to the future. I'm only talking about the past. I'm looking back. ICANN should have done these things. Okay? You have the power, some of us believe, in your contract. You should be doing this.

Kurt Pritz: This is Kurt. So here's the thing. What we're debating here, and the interpretation of the contract is a discussion between you and us, us that are on this call right now. It's a much broader discussion and there are other viewpoints. So, even if we were to wholeheartedly agree with you, we'd leave this conversation and I don't know that the fastest path to improving Whois accuracy is to say what you're advocating that this is the interpretation of the contract. We could try that and there is this review team. Review team reports could urge us to take that interpretation of the contract. But I think that after years of discussing this, many think that the best way to improve Whois accuracy, which we are soundly behind, is to make amendments to the agreement to make obligations clear and to concentrate on areas that whether Whois accuracy will reduce bad behavior.

And so, the avenues for changing the agreement to make it clear are really two, right? One is one Susan just cited in the agreement, which I think is 3.3.7.8, that the registrar will do this verification or authentication upon the -- once policies or specifications are established through a consensus policy. The other way is through this negotiation.

So it's not -- we're not here to try to argue the interpretation of the agreement, nor the -- I don't think that's appropriate for us and like Dan said, it's not really an easy topic for a discussion. But we think that this review team should urge for a greater level of Whois accuracy increased beyond that low hanging fruit to make the change more permanent. We agree about review of Whois accuracy. And we think this team should make it really clear that there should be ways too that ICANN can go about measuring Whois accuracy. Plus it's a fairly intrusive process to test the accuracy of Whois. So this team could recommend that.

And so I think we have the same goal and what -- we want to -- we're sitting here with Maggie talking about some of the things that we're already doing. But we want to attack it more fully. And to the extent that this review team is screaming for increased accuracy, we think that's a good thing.

Bill Smith: This is Bill Smith. I have a question. And that is if ICANN the corporation, which is a party to this conversation, the one we're having today, isn't able to offer an interpretation of the contract, then who is? And we're telling you what we think it says, at least some of us on the committee. And we're now hearing, well this isn't the right place to talk about that. But that's our job. Our job is to try and figure out, okay, what the policy is, is it being followed, what are the gaps? And right now, I'll tell -- I'm pretty frustrated. Okay? I'm hearing from staff we can't give you that answer. We can't tell you what the contract says. Other people have different interpretations. Right. Lots of people are going to have interpretation, but this is the contract that ICANN signed. It should have an opinion.

Peter Nettlefold: Bill, it's Peter here. I might follow up on that and whole-heartedly agree with what Bill has said. And thanks for your comments, Kurt. I think from the sounds of it we're all after the same thing. But to be blunt and this goes back to the point which I mentioned before about the respective sort of roles and powers of the review team here. What I seem to be hearing is that ICANN doesn't have a strong view that it can currently enforce accuracy, despite the fact that the AOC says very clearly that Whois accuracy is one of the things that the corporation will be taking all measures to enforce.

The RAA was renegotiated in 2009 by -- correct? So early in my morning.

Speaker: Yes.

Peter Nettlefold: And ICANN is currently in closed-door negotiations to get a new contract at the moment. The power is very clearly with ICANN. It just in my view needs to step up. You sign an AOC, it says you need to have accurate Whois data. You're renegotiating a contract again. Please, please make sure that you get all the tools you need.

Aside from our 50% accuracy target, the Whois review team has a separate recommendation which is very clear that ICANN should ensure that it has an enforceable chain of contractual requirements right down the chain and that there should be graduated sanctions and all the tools necessary to get accurate Whois data. That's a separate recommendation and in my view it's really very clear.

So I respectfully would turn it around to ICANN staff. You are the people who are currently having this negotiation to the extent that the review team is saying anything, it is being very clear that accuracy's very important and that it is very important that you get the right contractual tools to be able to achieve that.

Daniel Halloran:

Thanks, Peter and Bill. This is Dan again. So yes. I want to just restate what I said at the beginning that it's not that we don't want to be helpful or cooperative, we want to cooperate with you and give you what information we can. What I want to stress though is we don't want to on the record here analyze or debate with you guys what might be the weaknesses or ambiguities in the current provisions or try to suss out what's implied or what's not implied. Because we don't want to give any comfort to any registrar who we might want to go after later and be on the record as having said that we think a certain provision says something or doesn't say something. We just don't want to be on the record as having tied our hands here in this conversation.

We totally support you guys. You want to give out recommendations. We need to do more on accuracy, what we should be doing. And we want to talk about what the recommendations are and should be, even in -- and I didn't mean to put you in a place that it's only looking forward. I understand your point about wanting to look at what we should be -- what in your opinion we should be doing now or should have been doing for years past.

But we want to focus it on not analyzing the -- what might -- someone else might characterize it as oh, ICANN says this agreement is weak, or ICANN says that it can't go after registrars for this or that. We want to maintain any -- whatever tools we do have now and whatever strength or position or arguments we might have about what we can do, we don't want to give them away on the record now. So that's the hesitation to come on the record and say, oh no, Susan, that's not implied here or this is not. That's not what this says, we can't do that. We just don't want to go there today in this conversation.

Susan Kawaguchi:

So, I can understand that, Dan, but I guess what I think the team, for the most part, would agree is that -- and Bill has said this already and so has Peter. But I'm just -- want to state it again is you need to utilize everything that you have. Every tool you have. This is an extremely hard problem. We understand that. And we don't feel like in our review of the Whois issue, we don't feel like ICANN has done that in the past. So therefore, I am at least fearful of what you may negotiate in the future for the future RAA and there will still be no action. Because that is something the Internet community as a whole, the 2 billion or how many are on the Internet, cannot afford.

The inaccurate Whois records, when you see a record that may tarnish Facebook's reputation, that's not my concern, because Facebook can deal with that. My concern is that somebody's using our name, who they trust. They trust the Facebook name, and take advantage of those people through fraud. So it's the small Internet user that we're urging you to protect and to utilize the language that you've negotiated just three years ago in the best way possible to protect the Internet user. And that's what we would like to see you do.

Now, we could write that up as a recommendation, but I think we've already done that in pieces at least in different parts of our recommendations.

Bill Smith:

This is Bill Smith again. If you want something more specific, this is not coming from the review team, this is coming from PayPal, look at our contributions on the roadmap for

SSAC 51. We talk about things that we think should happen in the contract negotiations and in the policy stage. We give very specific guidance there. And I'd be happy to talk to any member of staff about it going forward.

Daniel Halloran: Bill, yes, this is Dan. If you could please forward that to our attention, we'd be happy to look at it. And again, happy to talk -- I think we offered last time and we offer again, anyone on this team or I mean in general anyone who wants to talk to us about these issues is welcome to drop us a line, email us, talk to us at meetings. We're happy to discuss this.

Susan Kawaguchi: And I do draw your attention to the last Whois I had Alice put up. And this is an old -- I pulled this out of the Whois history. It may not have stayed there very long for all I know. But really, should any domain be allowed to be registered by having complete X's in almost all the fields? That right there is a no-brainer. There's a way -- every website has fields that have to be filled in in a certain manner otherwise you can't submit it. And it's -- you're asking for recommendations on how that you could go about that. This is just elementary in how the current sites work on gathering information from users. So there's just no reason that a domain registration should have ever gone forward with all of this blatantly false information.

And I think you can get that first 50% would be a lot of this is what you'd be cleaning up.

Daniel Halloran: Susan, yes, this is Dan. So, I mean in the negotiations that -- one of the first things we talked about is what registrars call the sanity checks. What kind of sanity checks can you put on data at the time of registration or upon updates to make sure you don't get garbage like this. And this is another one where it looks like the name in question has been deleted. Is that -- are we looking at the Adobe at old information for a name that was registered and then --?

Susan Kawaguchi: Yes, I pulled this out of the Whois history.

Daniel Halloran: Yes, so that's -- the first step is like come on registrars, tell us what you can do in terms of at the time registration or upon update. Do a sanity check, make sure it's not all blank, make sure that at least there's a real city there maybe. Make sure that there's a phone number that's not all zeroes or something.

And then what that would -- unfortunately the effect of that is to drive bad guys to quickly put in that first example you put up, which is plausibly realistic and accurate data that requires another level to go deeper. And that's why we quickly -- we're discussing that hand to hand. Not just with let's make the fake data look realistic, but we want actually to have verified data and we want -- we're pushing towards what verification we do to make sure that that's a real phone number or that's a real email address? And that the person responds at that address, so that's a real postal address. That's what we're focusing on, not just the let's clean up the all X's or the all blank stuff. So.

Susan Kawaguchi: Well, it just seems that we could clean this up pretty quick. But I mean if you look at NSI's terms of service, they do not rely on the Whois record for their billing. They verify. They say they verify through using a -- and I can't quote it off the top of my head, but a software that checks addresses and zip codes for their billing. And so, I mean it's out there, it's in place. A lot of the registrars are using it. We just need to work together.

And there's a lot of companies like PayPal, eBay, Facebook. I mean I -- Apple, there's a lot of companies out there that are more than willing to help solve this problem, but you have to work with us because right now what we get from the compliance department is oh yeah, that's not good, but we'll send it to the registrar.

I mean these are -- I routinely send things in to inaccurate Whois, but it's the black hole of death because unless I follow up and I pound on a registrar, unless it's somebody like

Go Daddy, who some of the good actors. There are some good actors. Nothing happens. And it's once again, getting back to the current RAA.

Daniel Halloran: So Susan, I mean just to be fair, I mean I told you, I'm sure you could trot out other examples of ones that are recorded more recently or that haven't been fixed. But the two examples that you showed us are now deleted names. So I don't want to agree necessarily to the black hole death characterization that -- it looks like some things are getting done. We agree with you that registrars' feet need to be held to the fire and resources need to be put on compliance, but I want to just take a little bit of exception.

Susan Kawaguchi: But Dan, there is absolutely -- ask Maggie. She'll agree there's absolutely no reporting backwards from the registrar on what happened.

Maggie: So, Susan, I think we shared in Costa Rica some of the enhancements we're doing. And it was actually one of the questions that was shared with the IPBC. We showed you how we've shortened the process and we have also asked all registrars to show proof from the very first notice we sent them versus in the past it used to be after the third notice. So we revised the process to shorten the notice timeline and request facts up front.

So, have you logged an inaccurate problem recently and seen the progress in that aspect?

Susan Kawaguchi: I logged 30 in last week and only got six confirmations.

Maggie: Okay, I will follow up. Under your name?

Susan Kawaguchi: Um-hmm.

Maggie: Okay. We have put in internal turnaround timeline on the team to process our complaints.

Daniel Halloran: You mean, Susan, a confirmation that you submitted it, requesting that you confirm the report? Or what it --?

Susan Kawaguchi: Yes. I got six out of 30.

Maggie: Out of 30.

Peter Nettlefold: Can I just confirm that? This is Peter. So, Susan, you personally did 30 last week.

Susan Kawaguchi: It may have been the week before, because last week was (inaudible).

Peter Nettlefold: So this is from one company? Arguably a big company, but wow.

Susan Kawaguchi: Oh, you know what, Peter? I could report -- I could spend two hours a day every day for a year reporting inaccurate Whois registrations. I just don't have time. But I'm going to make the time now that I'm off the Whois review team when this ends. So, and it's not that I want to pound on compliance and I know I've been very harsh in some ways in my -- going through all the RAA with you. That's not the intent. But this has to be fixed and it can't be fixed two years from now. It has to be fixed now. And we all can do that together.

But if you won't work with me and I can't work with you, then we're losing some valuable assets. I can point out bad registrars to you all day long, but it doesn't do any good. And poor Maggie, I put her on one today. Different topic somewhat, but it still involved a proxy registration. And this one registrar never responds to a request or has never responded to me. And so I am leveraging everything I have. And Maggie's email address was one of them. Is that appropriate? Probably not. But when you get desperate you do what you have to.

Peter Nettlefold: It's a really important point I think and I think goes to the heart of having a sort of really proactive and strong compliance effort. I mean there was a discussion in Dakar and the US GAC representative I think provocatively, although also seriously, because there was a lot of talk around the room about their being good registrars and bad registrars. Said why aren't all the bad registrars, and the figure that was pulled out was 20%, why are they still accredited? Why are they still there? Like they should just be gone. If they're not responding, if they're not living up to their commitments, it's done. Like this is the sort of things the community expects. Cyber crime is a huge, huge problem and is going -- if it continues, it's going to place so much pressure on ICANN that it's -- yes.

So, I'm quite serious. Like I think the -- if compliance doesn't have the tools at the moment to deal with that kind of thing, if there are bad registrars, then those registrars go west. And this is the sort of thing that needs to happen in my view.

And in terms of -- to respond to Daniel, in terms of what kinds of validation models and so on. I mean again, to others on this call, Susan and Bill have their own perspectives obviously, but from the government point of view, we've been pushing very strongly for the law enforcement recommendations. As I'm sure you're aware, there was a very good, in my view, presentation in Costa Rica by Benedict Addis from SOCA outlining a very, very clear, in my view, and very sensible framework for doing upfront data checking. I'm not sure if what you're suggesting, Daniel, if that doesn't go far enough that you actually want to see something a bit stronger. But certainly from the law enforcement point of view, I think they'd be extremely happy if that was the first step. So I put that forward.

Bill Smith: And this is Bill. I agree. That presentation was very informative and I saw lots of people nodding their heads. Perhaps not the 20% who are non-responsive, but --

And the last thing I'll make before I have to cut out here is we're talking about the Internet here. This isn't some little name translation thing. This is the Internet. Every transaction on the Internet, virtually every transaction has to go through the DNS. And so, the Internet relies on this as a fundamental part and it has to be -- we have to get it right.

And right now it's a mess. There's -- seriously, there's no other word for those with respect to Whois. It is a mess. All right? I mean for me hearing 30 submissions from a single company in a week, knowing that there could have -- easily could have been more, and that we only get six responses back? That's -- sorry, guys. That's unacceptable. Okay? Not today.

Daniel Halloran: Bill, this is Dan. Thanks, sorry, and Peter, for the inputs. Yes, we were -- I think everyone here was -- in the room here was in Costa Rica and saw the SOCA presentation. We all thought that was good too and we definitely are working from and towards the law enforcement recommendations on validation. And so, yes, we're with you. We're working towards implementing those. And thanks for your input.

Bill, did you have a question that I missed maybe?

Bill Smith: I don't think so. Sorry.

Peter Nettlefold: So, it's Peter here. I'll put my chair's hat back on, because I think there's been some questions both ways. Obviously we've had some questions for the staff. And you've obviously done your best to answer them. I understand the sensitivity about sort of putting positions on paper what as it may prejudice future actions. I'm very sensitive to that obviously.

And you've also had some questions or suggestions for us. But out of the to and fro, I guess I'm not entirely clear where we're at. And I guess as a -- to sum up and to follow up, it may be useful if staff -- I mean we're seeing preliminary comments on our draft

recommended -- staff comments on our draft recommendations. If there are any sort of staff comments that go to areas you think we could be clearer or stronger or more assertive in ways that would help, I would encourage you to send them through.

As you may know or may not know, we're actually really close to finishing now. So we're making a really sort of concerted push with Emily with her, making sure we stick to our deadline, finalizing our recommendations.

So to the extent that sort of broad targets or talk of strong chains of contractual requirements and so on don't do the job that you would hope, please let us know as soon as possible. And with as much clarity as possible because we're really running out of time in terms of actioning things.

- Daniel Halloran: Okay, thanks for that. And this Dan again. So we'll maybe work with Denise again to follow up and see what we can put together in terms of information or any follow up that might be helpful to you or more availability if there's anything we can do in terms of reviewing stuff or answering questions or anything we can do to help.
- Maggie: Susan, for clarification please, because I really take what I heard from you very seriously. You said you filed 30 complaints in the WGPRS system under your name?
- Susan Kawaguchi: Yes.
- Maggie: Okay, because we're looking at it and as of now we can only confirm six reports from you. Just want to make sure. Was somebody else maybe under a different name from your organization filed it? Or --?
- Susan Kawaguchi: No, nobody else gets the joy. No, I -- and that was -- I submitted six -- uh, 30. Maybe 28, but I think it was 30. But because it was -- I think it was not last week, it was the Friday before. And usually there's a process. You get an email, you confirm, blah blah blah. But I wasn't getting everything I usually get. So I was very concerned that they actually went to you. But it took me -- because there's only one -- you can only report one at a time, and so and you have to key in the information. I didn't have any more time to follow up at that point.
- Maggie: Yes, and please for the future, immediately contact us. Within three business days you do not hear, let me know. Because we have caught up the backlog in the queue. So again, I just want to confirm, it's all filed under your name, through the WGPRS. Because we can only see six. I will follow up with IT to check if something fell through on the system. But if you have that list, I would greatly appreciate if you can forward it my way.
- Susan Kawaguchi: Okay, I can do that. That'd be easy. Great. Thanks, Maggie.
- Maggie: Thank you. And I will follow up, I promise.
- Susan Kawaguchi: Okay. You always do.
- Peter Nettlefold: So, unless there's any objection, perhaps we could move onto point four of the agenda. I'm mindful that the time's ticking. I'm not sure how long people have to stay on this call. But item four, which is discuss compliance team and decision-making. Is everyone okay if we move on to that item on the agenda for now?
- Susan Kawaguchi: Yes.
- Peter Nettlefold: Okay, so I can speak to this one because these were questions, which I pulled together following discussions with various people on the review team and elsewhere. And to sort of give a little bit of context, it's no surprise given this conversation and earlier ones that we're obviously (inaudible) a fair bit of attention on the way that the compliance function

works and how it's resourced, what sort of tools it has available. And I guess our overarching sort of goal is to make some recommendations that will assist ICANN to making the compliance team proactive, fully independent from other interests and able to fulfill the job. There's quite a bit of sensitivity I gather about regulators. But personally I'm not sensitive about it. I see ICANN very much in the mode of an industry's soft regulation model. So someone to step up and do the regulation or self-regulation of this industry. This extremely important industry.

And so, one part of that is to ensure that the lines of reporting and accountability and decision-making and so on are clear and appropriate.

So, I'm not sure if everyone has the questions in front of them, but perhaps it'll be easiest if I work through them one at a time. So, it became clear to us after the review team started that in fact the head of contractual compliance team may not in all situations be making final decisions without compliance actions. It's not -- well, perhaps I phrased that too strongly. It's not clear whether that is the case. It's in that the head of contractual compliance reports to someone else. Which I guess is always the case in an organization, but it's not clear to us and there's nothing that we've been able to publicly find that clarifies where the decision-making steps are actually taken.

So the first question is does the head of the contractual compliance team make final decisions about compliance actions in all instances or not? In some instances do they need to be cleared or vetted by someone else? So that's the first question.

John Jeffrey: So this is John Jeffrey speaking. Can everyone hear me?

Peter Nettlefold: Yes, thanks, John.

John Jeffrey: So to answer to the first question I want to go to a broader point. So the compliance group is a department within ICANN. So it is not a separate entity. It doesn't report outside of ICANN's internal structure. So like services like legal, like board support, like many other (inaudible), like many other functions within ICANN it's a department within the larger ICANN staff structure. Just as a starting point.

So the head of compliance has a component set of responsibilities that relate to performing that department's structure. So many, I'd say the vast majority of decisions relating to compliance are made within the compliance shop and don't require decision-making outside of compliance. I'd say it isn't even always the head of compliance, it's functionaries within the compliance department, the contractual compliance department that actually make decisions based on the authority that's been granted within that departmental structure. Not unlike many, many other organizations.

In some instances where there's materiality, then the decision would be made through the executive team. And in the end, if it's an executive level decision, the CEO has ultimate authority.

So, Maggie, in particular at this time, reports through me as general counsel to the executive team, not through legal, but through me as an individual member of the executive team. And ultimate responsibility for decisions made within her group are the responsibility of the CEO and President.

In some instances where the materiality is even greater, then those would be board level decisions and there would be board consideration before a decision is to be made. And so I hope that's answering your question. If it's not, I'm happy to clarify that more.

Peter Nettlefold: Peter here. No, that certainly answers that first question from my point of view. Is there anyone else from the review team who wants follow up on that first question? Okay, I

hear silence. So perhaps we can go to the second question. Thank you for the answer to that first one. That was to my point of view very clear.

So the question is, and I heard you use the word materiality, so I guess the second question is taking some clarity around that area I guess. If so, is there a threshold and/or criteria for taking responsibility for a compliance decision outside the compliance -- and I'll change the word now to compliance department, which I understand it's called. And we can roll that in with the third question. Are those protests in the reporting lines clear and documented?

So in the some instances where there is a material concern and a decision moves up the chain, is there a threshold or criteria for that? And are they clear and documented?

John Jeffrey:

So, the compliance department, like many other departments, but probably even more so, has very clear documented processes. And particularly since Maggie's come on, those processes have become more and more clear.

One of the reasons that we hired a manager, a business manager, rather than a lawyer was so that we could focus on making sure that those processes were more exact and more uniform. And that they'd be followed in a uniform way and applied fairly across the different instances that would come into the organization. And so Maggie's done a great deal of work on that and there are many documented processes. And in very few instances, I'm really thinking it's -- Maggie, correct me if I'm wrong -- but I'm thinking it's like 1% or 2% of the instances it actually gets escalated past the compliance group.

In those instances, it usually relates to the likelihood of a lawsuit, a specific type of lawsuit being filed or where there's a significant ambiguity, which requires an interpretation of policy or an interpretation of something that is different than the norm.

So a great example of that would be recently when compliance elected to use the new suspension provisions that were in the recent RAA. In that this was the first instance of using that, that escalated through an executive review all the way to the CEO. And was discussed at the executive team level and inputs were provided to make sure that we were communicating that clearly and that it was done in a fair and proper manner, particularly since it was the first time. And the goal with that was to take that instance and make it the model for how to do that going forward.

And the materiality of it related to the use of a new clause within the agreement, making sure that we were using that properly, making sure that it was communicated. And even communicated out to the board, so that there'd be no surprises either at the executive team or the board level.

Did I answer your question? If not, I'm happy to try to answer it more deeply.

Peter Nettlefold:

It does for me. Anyone else on the review team want any follow up on that particular question? Okay, again I hear silence. So, last question was what other responsibilities and incentives of the ultimate decision makers? E.g. are there incentives and responsibilities clear or exclusively compliance focused? If not, why not? Are any conflicts of incentives or interest resolved?

So, to put some flesh around that question, if something does come up to you or someone else within the executive team, are your incentives and responsibilities clearly focused on having a robust compliance function? And are there any other incentives or responsibilities that you have that may cause a conflict? And if there is a conflict, how are those resolved?

John Jeffrey:

So, I'll answer it from both the personal standpoint and from an organizational standpoint. From a personal standpoint, it's been a high priority in my view of compliance activities

and I believe in the view of all executives at ICANN to make compliance stronger, more robust, more clear in what it does. And to make sure that those processes are built appropriately and that we can become stronger and stronger in our compliance efforts. And I think not as fast as we'd like of course, but we're starting to make significant progress with that.

I know of no instance where a recommendation from compliance came to the executive team or to me and was rejected. Now I can't think of a single instance where that's occurred. In fact, it's sometimes the opposite, it's can't we do more? Aren't there ways we can accelerate the processes? Aren't there ways that we could move more quickly? And unfortunately it's taken us some time to build up the function of the compliance team and to make it more capable of being successful.

But that has been a primary focus of the executive team. It's been a focus of the board. The board has asked for and been briefed on compliance changes and growth at least four times in the last year. And there's been many more discussions than that at the board level. So I know from the board and the executive team, enhancing compliance, making it stronger and making it more successful and having clear processes in place has been an objective and we see it -- the success of ICANN is the incentive. And we believe that compliance is one of the key legs of ICANN's success. If compliance isn't functional, ICANN won't be functional.

So I think it's very clear from everything I've heard and from the approach that had been taken inside to make that happen and to make it happen quickly.

And I hope I've answered your question. If not, I'm happy to answer it more -- in a different way.

Peter Nettlefold:

So Peter here. I'll take the first response to this. I certainly thank you for your answer. And I have no question on in terms of the goodwill of the individuals involved. But in terms of looking at governance and management structures, it's a very different thing to say that the intent of the people actually involved at the moment is nothing but good and that it is all well directed. And another thing altogether to say that processes and the incentives and the things, which are written down and codify those, are clear and based on best practices.

So, I certainly have no question that the current executive team and yourself are pushing for strong and robust compliance and things do appear to be improving. The actual question though is whether the incentives and responsibilities, so those things which are codified in agreement and which mean money to people at the end of the year, and are in contracts and so on, whether those are clear and exclusively compliance focused. And to say the thing, which I always say, based on the sort of best practice understanding that we would expect. So I think the question is somewhat different to the one that you answered.

John Jeffrey:

Yes, so I'm not sure that I understood the difference in the question. I believe that it's very clear from ICANN's strategic plan discussions, from our operating plan discussions. I know if you look at, for example, the summary of the strategic plan for 2011 to 2014, under competition, consumer trust and consumer choice, which is one of the four big buckets, and under staff work it's the number one listed section. Compliance improvements. So it is clearly within the goals and strategy of the organization to have improvements in the compliance area. And those principles set out in the strategic plan and then set out in our operating plan and which implement which rolls down into the budget, is exactly what we use to provide the goal setting, all the way down to the very junior most person in the organization.

So we look at how individuals operate within their functions, what they do and we roll those goals straight from the strategic plan down into who and impact us. So in fact, I

think it's very much an incentive and it's an objective of the organization to implement compliance improvements.

Also, if you look at the adopted budget, which I think is dated August 9, 2011, it has a section in 4.5, which goes specifically to compliance and the focus of the work of the contractual compliance group from the budget.

Peter Nettlefold: So I'm not hogging the microphone, does anyone else on the review team want to comment on this final question?

Susan Kawaguchi: No, I think you've done a good job, Peter.

Peter Nettlefold: Thanks, Susan. Okay, so the last item on the agenda, I think we're within a few minutes of when we're meant to wrap this call up, is any other business. Does anyone have any other business to raise at this stage?

Susan Kawaguchi: Does ICANN staff have more recommendations for us?

Peter Nettlefold: Yes, that's a good question, Susan, and I guess the one that I tried to wrap up, number three by a little bit. It seems that there was some comments from staff for us and perhaps -- and I gather that staff may follow that up with us. But are there any other questions from staff under the any other business sort of more broadly as well?

Denise: This is Denise. I'd like to just clarify, so specifically from the team member side. Is there any additional data or information that you feel that you need staff to follow up on from this call?

Susan Kawaguchi: Not that I can think of.

Peter Nettlefold: I'm okay.

Susan Kawaguchi: Yes, this is Susan. Not that I can think of.

Kurt Pritz: Okay, so this is Kurt. So certainly we raised the first set of recommendations very carefully and we have a draft version of the second set of recommendations that are very similar to the first. And so -- and we've read them and considered them very carefully too. And just like with regard to Whois being a strategic priority, I think John's previous description echoed the fact that we think it's very important. But we think it's very important that it's in this report and appreciate the additional detail that's in the report and the fact that you put it first. So, we think that's good.

With regard to -- so I think it's as simple as that. With regard to recommendation two, I think we discussed that quite extensively during the last call and appreciate the fact that we need a central location for all Whois policy and practices document and procedures. And so, to the extent that this recommendation means that, and that's what we think it means based on our last conversation, we're all for that. So we think we're on all for there.

With regard to outreach and recommendation three, we kind of have a different interpretation for outreach but certainly in how we treat the term outreach in ICANN because it means so many different things to so many different people. But certainly we're in complete agreement that Whois discussions should include all parts of the ICANN community and those outside the ICANN community. And we interpret that as meaning, for example, law enforcement that haven't been traditional parts of the ICANN community and others.

So then we're to recommendations five and eight, and we had quite a long discussion about that before. I know you've asked for our help during this call. And for explaining

our interpretation to the agreement and to enforce the agreement to its fullest extent. I think you can help us and help Whois accuracy by demanding clarification for that. And demanding policy discussions that increase the duties of registrars and others with regard to Whois accuracy. And I think it's really important that you do that. So just as you're demanding of us on this call to enforce the agreement, I think our ask of you is to demand that registrars and others should make clear their duty of what we mean by accuracy and what the duty of registrars should be and make that a policy discussion.

Peter Nettlefold:

It's just Peter here, Kurt. And first of all, thank you very much for actually going through the recommendations like one-by-one. This is great. And I think now hitting on the data accuracy one, perhaps we could stop there, because this is -- I think where we were getting to and what I was trying to understand from earlier in the discussion.

So, to sort of focus in on recommendation number eight, that there should be a clear unambiguous and enforceable chain of contractual agreements with registrars, registries and registrants to require the provision and maintenance of accurate Whois data. And that there should be clear, enforceable and graduated sanctions that apply to all those entities that don't comply.

So, this is what I was trying to allude to before. That's obviously quite high level, but to my mind also very clear. Is there something in addition to that that starts our after? And I heard you say something about sort of defining or talking about accuracy. Is that the area you're interested in or where exactly does staff want us to help you?

Kurt Pritz:

Okay, we're trying to develop new tools in two different ways. One is through the negotiations we're having with registrars on the RAA. So we think well, they'll be a new set of tools and new duties for registrars to authenticate and verify Whois data.

We also see -- and so we think that this report should urge the development and the enforcement of Whois accuracy through registrar ICANN negotiations.

And then we were looking, and I can't find it now, but we were looking at the registrar accreditation agreement before and I think it's section 3.7.8 that says when new specifications and policies are developed to increase the requirements for verification of Whois data that registrars will do it. And so this is a policy discussion that has gone on for years and years and years and not made headway. And we think it's really important for ICANN to make headway in that discussion.

The big ICANN, all of us together. And so that -- informed by all the Whois accuracy studies we're doing and informed by the experiences that Susan just brought to the table here at this meeting, and she brings in with her Whois accuracy data problem reports. We think the policy discussion needs to be moved too.

(Inaudible) phase one -- talk it two ways, one to the registrar negotiations and also to a policy discussion.

Peter Nettlefold:

Okay. I think I understand it. I'll try to see if I do. So on -- we've got the recommendations up on the screen. I'm looking at them. A lot of them are quite specific, but number eight is the one that's sort of broader. But it is particular to the contracts.

So is the proposed suggestion and I would fully support this, and I guess we just missed it perhaps, that we make an overall statement that accuracy is important and should be progressed wherever possible. And then including through contracts and policies and so on. I mean is that the sort of sense that you think we've missed something, which overarchingly says that accuracy should be pursued wherever possible and is very, very important?

- Kurt Pritz: Yes, so I think you've made it really clear that accuracy is important. You put it first, that it should be a strategic priority. So I think you should start that sentence with given that high accuracy is very important. But no, I don't think you've missed it. You've made it really clear.
- Peter Nettlefold: Okay.
- Susan Kawaguchi: So, Peter, maybe we could redraft nine a little bit to include the policy discussion aspect and the contract negotiations. So maybe that's something we could --
- Kurt Pritz: Yes.
- Susan Kawaguchi: I think we have elements of what Kurt's saying, but we could be clearer.
- Peter Nettlefold: Yes, I agree. And I'm -- well, I think accuracy is something that the review team has generally on throughout that greater accuracy a good goal. To the extent that we run into any troubles, it's when we've tried to be too detailed and go into sort of describing processes or ways of getting to accuracy. So we've tended not to do that.
- But I mean in terms of a high level, I think we will be able to look at that without -- well, look, I can't speak for everyone else. But I'm certainly happy to look at it. So thank you for those comments.
- Kurt Pritz: Yes, I think also on the registrar negotiations and we're working towards recommendation nine and that is an accreditation program for privacy and proxy services. So ICANN can develop an accreditation program and we're going to work on one in accordance with this recommendation. And then the important key of course is to have registrars required to use accredited proxy services once the program's developed. And so that's part of the negotiations.
- Susan Kawaguchi: Yes, while you're negotiating, can you define promptly? I would love in, what is it? I should -- I know, 3.7.7.3. If you could define promptly that would save me so much heartburn. That's just a side note.
- Kurt Pritz: Yes, I think the debate -- so that's another area of a lot of debate, right? So the debate is more about what's the evidence of disclosure, whether it can be something less than a decision.
- Susan Kawaguchi: I mean this may be a little off topic, except it's not when you look at our proxy recommendation. There's some very standardized processes that are uniformly used that are with proxy services. But they're also extremely similar to reporting issues with Google or on Facebook. It's all the same language or very similar language. And I think you would find that if you talk to a few of what I would characterize as the good proxy services, that as long as they have a certain level of language and disclosure of intellectual property rights, at least in that -- law enforcement could be different, I can't speak to that. But they're comfortable with releasing information based on their talk. So, there shouldn't be much of a debate on that process. Go Daddy has put in place a very good process along with several others. And if we just sort of get those all down on paper and agree to some standards, I think you could move toward a volunteer system pretty quick.
- Kurt Pritz: So you think a volunteer -- yes, we're concerned with volunteer processes. We want to, like you said, get the 20% if there were 20%. But whatever the real number is, that's what we want to get. And so that we're not so concerned with the ones that would voluntarily adopt the -- what we want to pursue is ensuring that all registrars adopt good practices.
- Susan Kawaguchi: Well, I think you could figure out the best practices in a volunteer method. And then whether or not you take that and actually create a formalized accreditation program or

whatever you might want to call it then that's definitely ICANN's position to take on that. But I think you could easily, well, I'm not sure anything's easy in the ICANN community. But I think you could come to agreement fairly easy, just looking at the best practices that are out there already.

(Inaudible) figured it out and do a good job of it.

Peter Nettlefold: So, it's just Peter here. First of all, I'd just note to staff that there is a new proxy privacy recommendation, which we've been finalizing. I'm not sure if you've seen that one, but it's different to what we had in the draft arrangement, which is with privacy and proxy services. I think we're pretty close to having a different recommendation.

And to go to the point about voluntary or not voluntary, I'll take the counterview to Susan. In my view, the only people being served by voluntary arrangement are the bad actors. And to my mind, there's really very little benefit to having voluntary best practices that only the people who are already good actors will sign up to. I can see the benefit to the good actors in that they can market themselves a little more clearly and they can say we're signed up to blah blah blah. But in terms of where the problems, the real problems lie, or a lot of the problems lie, it's in the area where people are -- those registrars are unlikely to sign up it would seem to me. And I'm all for not giving those bad actors a break.

So if there is some best practice developed and the way we're recommending it at least in our draft recommendation at the moment is that everyone in the community get together and work out some standardized processes around how this sort of thing would work. It would be my strong hope that that would -- once everyone thrashes out all the issues that need to be thrashed out about privacy and data protection and where -- when it's appropriate to reveal and relay and when it's appropriate to protect the data and so on, that once those best practices are developed, they should apply to everyone. That's personally my view, even if I don't speak for everyone on the review team.

Kathy Kleinman: Peter, I wanted to comment. This is Kathy.

Peter Nettlefold: Yes, go right ahead, Kathy.

Kathy Kleinman: Okay, great. I wanted to add that the voluntary part I think will be very helpful as we develop voluntary standards. You guys should know that we received a lot of comments on the proxy privacy. It generated a lot of discussion. And frankly it was one of the areas that generated a lot of passion and concern, not just from the traditional human rights groups, but even from intellectual property and business constituency representatives. There was real concern about the need to develop the proper protections. And before we go forward certainly with accreditation or mandatory that this is an issue of grave concern. Not anonymity but privacy for the human rights people.

And for anyone who's operating properly under a proxy, and not having their information disclosed without really some type of due process or due rationale. So I think everyone's going to be watching the voluntary process very closely to see if we can work out what are some really thorny issues as everyone on this call knows.

So the voluntary gives us that opportunity for the community to sit down with an incentive not a disincentive. The voluntary is an incentive to develop something balanced. In fact, to give something away perhaps, to compromise properly, because if it works really, really well, then it probably should move forward to some type of mandatory adoption. But that voluntary is that first step to see if we can get past the knot we've been in for 10 years and get something balanced. Thanks.

Peter Nettlefold: Let's all pitch it back to staff to continue going through our recommendations. If staff thinks it's useful to -- I think it's probably best if we as a review team provide you with

our final recommendation and you see the compromise we reached rather than us negotiating here in front of you.

- Kurt Pritz: Yes, that's good. Yes, I just want to comment on the very last one and that is about internationalized domain names. And just to provide a status update, I think that there is significant progress at the last IATF meeting with regard to working on a standard for changing Whois to a format that accommodates internationalized data. And in the recently posted agreement for the renewal of the dot com agreement with VeriSign, they've committed to adopt any new standard approved by the IATF for -- not any new standard, but a reasonable standard for internationalized data. So we think that's -- we want you to keep this recommendation because we're looking for all points of pressure to keep the momentum going on this.
- Kathy Kleinman: Kurt, this is Kathy. Is that 18 through 20 or 18, 19 or 20?
- Kurt Pritz: Hang on. Which recommendation, is that what you mean?
- Kathy Kleinman: Yes, were you referring to the cluster of three or to one in particular that you really like?
- Kurt Pritz: Wait, here it is. I left it on my desktop. So in fact -- so I like -- 20's the goal right? 18 and 19 are the path to finishing. So 20's the most attractive and my opinion is I don't know if we care how we get there, as long as we get there. So, there's a lot of work that's already accomplished in the IATF and I think the GNSO has taken this up. And I think the GNSO is kind of the 18 and then the staff is 19. So they're fine the way they are. I think that -- so I've been just talking while I think. So I think if you were to amend these at all, you would recognize the work that's going on in the IATF right now on a standard and urge them to complete it.
- Kathy Kleinman: Do you -- can I ask you, the work on translation and transliteration. And which will go where in the IDNs? Where do you see that work being done? In the IATF or ICANN or both? Meaning what type of data really goes into the field?
- Kurt Pritz: So, right now the fields are kind of -- and Dan can help me on this, but they're just kind of a blank that can be filled in with anything. And so the new standard would recognize the characters, the Unicode characters that would be entered into each one and verify that it is an actual character.
- Kathy Kleinman: Right, but as I understand it, there hasn't been a decision made on whether there'll be data -- certainly -- probably accepted in the script of the registrant, but also whether it will be translated or transliterated. So almost maybe another field that these decisions haven't been made yet and probably need to be made expeditiously it seems to be. That's 18 and there may be clarification urging ICANN to do a lot of work on translation and transliteration in a new version that we're looking at. And so let me pose whether that would pose an issue to ICANN or whether you think that's really an IATF issue.
- Kurt Pritz: I don't know. I'm looking across the table, so I'll have to go back. I'll talk to Francis, go and see if (inaudible) are working on this and ask them that question.
- Daniel Halloran: Kathy, it's Dan. I don't think you have the right experts here in this room on that. But my mind is kind of boggled at the idea that you translate anything. Transliteration would be just how you write that in ASCII characters. Translation would mean let's say some city in China, the meaning is City on a River, but we would just want whatever the Chinese name of the city is transliterated into ASCII. We wouldn't want City on a River. Or if somebody's name mean's Blacksmith's Son, we don't care about that, we just want what his name is from Arabic or Chinese or whatever transliterated, not translated. I think. So translated's kind of alien to me. But it sounds like you know about it that we do, so.

- Kathy Kleinman: And we -- actually we did have a good call. We have a Whois review team sub-team looking at IDN and we had a very good call with Steve and Francisco. So, but I'm not sure we had all the details of where the recommendation was moving at that time, 18, 19 and 20. So, I thought I'd ask you. But it is complicated stuff and they are very good at it, as are the members of our team.
- Kurt Pritz: The important thing is to register the importance of the issue and keep the pressure on and to focus on results. So even if the specific recommendation about how to go about it is approached differently in the end, the important thing is that you urge a solution be implemented that -- developed and implemented.
- Kathy Kleinman: And I'll echo the frustration that I've heard from so many of my team members that IDN gTLDs are coming out and we haven't solved the problem. And they're very, very concerned about that. So, they're with you about the pressure and continuing the work. So thank you.
- Daniel Halloran: Kathy, this is Dan again. We'll just have to defer to Francisco and Steve. The way I understand it, we've had -- this has been a longstanding issue. We've had people registering domain names from countries that use other scripts for a long time and then a challenge of how do you write their contact data, their address, their name, all that stuff. How do you put it into Whois? And it's a longstanding problem, which I know is being tackled variously different groups.
- Kathy Kleinman: And ultimately we'll probably be resolved with a new protocol that can signal IDNs in different scripts. But the transition is of interest and thank you for sharing what's in VeriSign's contract, because this is one of the issues we've looking at is new gTLDs versus existing gTLDs. And what the transition will look like for new gTLDs if they go to a new Whois protocol.
- But anyway, thank you. Thanks for the discussion on that. Peter, would it be okay to circle back to the outreach recommendation for a second?
- Peter Nettlefold: Yes, absolutely.
- Kathy Kleinman: Okay. Sorry I didn't raise my hand earlier on that. Kurt, I heard your summary and I just wanted to double check with the outreach. That our intent was clear that not just the inclusion of law enforcement data protection commissioners in the process, but actually reaching out to notify them about it and get their attention when something's happening that might be of interest to them.
- That was kind of -- you're right. Outreach is used in many different ways within the ICANN arena. And we need to clarify this, maybe let us know. But that this is really a proactive -- because they're not going to be monitoring us at ICANN as -- we probably have a good sense of who they are now because they've been participating from time to time. We know the data protection commissioners and their organizations. A number of law enforcement agencies are participating. But we've heard concerns that they don't monitor the GNSO closely and something might happen that they're interested in. So this outreach is really about proactive notification if something's happening in the Whois arena that might be of interest.
- Kurt Pritz: Thanks, Kathy.
- Kathy Kleinman: And so thanks. And if we need to clarify that, let us know. And Peter, would it be -- in terms of timeframes for responses or anything -- any additions or thoughts from people who are with us on the call, should we tell them that we're probably closing the report by the end of the week?

Peter Nettlefold: Yes, I did mention that earlier, Kathy. I think we've acknowledged and we'll need something as ASAP if we're to be able to action it like we are literally last throw of the dice kind of thing. Like we're dotting I's and crossing T's I think at this stage.

Kathy Kleinman: Exactly. Well, thanks. I think it's been a great call.

Susan Kawaguchi: Yes, I do too.

Peter Nettlefold: Yes, thanks to staff for all the answers to all the questions and the input and the suggestions. It's been really useful from my perspective certainly. And I think from all of our perspectives.

Daniel Halloran: Okay, well thanks very much and if there's any follow-up questions, just Denise can forward them on to us.

Susan Kawaguchi: Thanks a lot, everyone.

Kathy Kleinman: Thank you for your time. I really appreciate it. I know this is a busy time for you all.

Speaker: Have a good evening, everyone.

Kathy Kleinman: Okay.

Peter Nettlefold: Bye, everyone.

Susan Kawaguchi: Thank you very much.

Kathy Kleinman: Peter, thank you for chairing.

Peter Nettlefold: No problem.

Kathy Kleinman: No, that was great. Thanks.

Susan Kawaguchi: Peter, are you still on?

Peter Nettlefold: Yes, I'm still here.

Kathy Kleinman: Is anybody else still on the call?

Peter Nettlefold: We're all -- just the review team can visit for a few minutes if that's --

Kathy Kleinman: Anybody from ICANN still on the call?

Orlaf: Yes, Orlaf here, but I'll hang up now. So you can talk freely.

Kathy Kleinman: Okay. You're a member of the review team, Orlaf. Did that accomplish goals that you wanted it to accomplish?

Peter Nettlefold: Is Susan still here? Because she was first on the agenda with her question. Susan and Bill, did you -- it did from my point of view I think. And are you there, Susan and Bill?

Kathy Kleinman: I guess it's just us. Okay.

Peter Nettlefold: It's just us. Okay, well I'll speak extremely freely then. Yes and no. Like there was a couple of emails flicking around just amongst ourselves on the side, but it was interesting. I think they -- the sort of --