
SINGAPORE – At-Large Registration Issues Working Group
Tuesday, March 25th 2014 – 17:00 to 18:00
ICANN – Singapore, Singapore

UNIDENTIFIED MALE: At-Large Registration Issues can now proceed. Thank you.

ARIEL LIANG: Good afternoon to all our participants here in Singapore, and good morning, good afternoon, and good evening to all our remote participants. Welcome to the At-Large Registration Issues Working Group session on Tuesday, 25 March, at 17:00 in local Singapore time.

We have interpretation in French, Spanish, and Chinese, so please state your names when speaking in order to identify you on the various language channels as well as for transcript purposes. Please also speak at a reasonable speed in order to allow for accurate interpretation.

Over to you, Holly.

HOLLY RAICHE: Thank you, Ariel. A little bit of background while we get some – I have just two slides. The issue really is about the accuracy of the data that is required under the Registrar Accreditation Agreement. The debate has been going on for many, many years.

The most recent amendment to the Registrar Accreditation Agreement signed by the Board in 2013 has some fairly strict requirements in terms of the accuracy of the data, its verification, the requirements on resellers to be responsible.

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.

One of the elements of the document that the Board signed in 2013 was a thing called the privacy proxy specification. It's part of the whole package of the WHOIS issue because some of the studies that have been done about the accuracy of WHOIS data that is contained by privacy proxy servers has indicated that it is not very accurate or cannot be very accurate and, at times, is used by those who would wish to misuse the system. It's become a fairly big issue.

The decision of the Board in 2013 was twofold. It was, one, to actually say we're now going to have a specification so that if you offer a privacy proxy service, then you will have to do certain things.

And a what I will just call the skeleton specification was a document that was included in that documentation in 2013, but the Board, at the same time stood back and said there is a larger issue here about the sort of data that we collect from registrants. Those are the people who have the domain name. Whether or not it should be public, the circumstances in which some or all of it is made public or not, who should have access to what is, after all, personal data and under what circumstances.

In fact, it's really almost a two-part issue as to the sort of requirements in terms of data accuracy and revealing data that is held by privacy proxy servers about the personal details, the contact details of registrants.

Originally yesterday, what Carlton and I decided to do was to have to our forum the first part would simply look at the issues that have been raised by a working group that was set up by the GNSO to put some flesh onto the specification itself on privacy proxy.



But the second hour would be to stand back and look at the larger issues raised by WHOIS data in terms of: where is it held? Should it be held in one place? Who verifies it? Is that proper verification? Under what circumstances are some of the data made available or not? Who has access to the data, and how do you say some people have more access than others and who are they? How do you manage it?

Carlton's part of this was what was called the Expert Working Group. That was the group that was designated by the Board to have that larger and more high-level look at in the data that is collected by registrants and how it's collected. Who collects it? Who verifies it? Who uses it or not?

Because of all of the events that have happened in the past week or less, the fora was actually collapsed into one big session that really addressed the two issues in one – all of the issues about WHOIS data – some of them looking specifically at the specification. I will deal with those issues and, if Carlton hasn't left as well, we can also talk about the issues, the larger Expert Working Group issues.

I first want to talk about just – if we can. Have we got PowerPoints? I e-mailed PowerPoints about three hours ago to ICANN staff. That's alright. I remember what I said, so we'll just keep going. We'll find them later.

I'm going through the background. The specification itself is fairly barebones. It really says, first of all, there's a set of definitions: What is a privacy service? What is a proxy?



Privacy, essentially, is where a registrant who, for a variety of reasons, wants to keep their personal details not available publicly will use a privacy service. The data that will be shown as WHOIS data will essentially be the data of or contact details of the privacy provider. There may be a name, and that may be it. There may be nothing known about the registrant.

The other kind of service, which is the proxy service, in the WHOIS final report at one point they were simply saying, essentially, that kind of service is somebody acting, essentially, as an agent. They, at one point, said we don't even need to call them proxy servers but, essentially, it's an agency relationship. Somebody let's somebody else use the domain name – slightly different, but in either case, you don't have the registrant details available.

Going from the definitions in the specification there are a few – we've got three people? Alright, there may be people listening, I hope.

Essentially, what's aside from the definitions, what you've got in the specifications is, first, that if you want to provide a privacy proxy service, then you have to be accredited. The next thing, you have to provide terms and conditions of the service. Basically, the data you'll collect, the data you'll reveal (if at all), when you'll reveal it, if you'll reveal it, or if you get a request and what you say to your customer is, "I'm not going to give your details out under any circumstances, but if the law enforcement want to know about you, I'll just take it down." So mainly the terms and conditions under which the data will be held and under which the data will be revealed.



Law enforcement was very keen to have what's called a 24/7 abuse point of contact, so that if law enforcement agencies need to get ahold of somebody to take the site down because of particularly malicious activity, that this is possible.

There are some exceptions in the specification. I won't go into them right at this point, but there are some exemptions from those requirements. But as you can see, there is so much that is left unsaid in the specification, starting with: who does the accreditation of the proxy privacy server? What are the tests to become one? What about the circumstances where you may have a registrar, and then an individual simply says, "Oh, well. Look, I'll put my name down instead of my mate's name down." And they're simply not registered; it's not even known.

In one of our discussions, there was a guy who said, "Well, look. My aunt basically doesn't know a thing about domain names, so I just put my name there and that's fine." In essence, he's a privacy service provider, and he wouldn't be accredited.

You've got a whole range of issues before you even start some of the thornier issues. The thorny issues are, first of all, how do you verify? Under the 2013 amendments to the RAA, there are some pretty strict tests about verification.

Mainly, there's a thing called the privacy proxy accuracy specification. It's a whole set of tests you have to, if you're a registrar, perform in terms of verification of the details. One of the questions that has been bandied about an awful lot on the mailing list is: Should the test be



higher in terms of verification for people whose personal details are not going to be available, or not?

The registrars are of the view that they want the same tests for everybody otherwise it just becomes too difficult. Law enforcement particularly want to make sure that anyone who actually gets a domain name – particularly those who are hidden from view – that there's some test to make sure there's a real human being there and that that human being has some relationship to the personal details. That's the first one.

The next issue would be: Under what circumstances can somebody use the privacy proxy service? Should it just be a right or not? Earlier conversations would suggest some people think, "Well, companies should not be able to use privacy proxy services." Other people say, "Well, even NGOs are companies, and in many circumstances they don't want their details revealed." So there's a live debate about: Is there an eligibility test? If there is, what is it? Should anybody, for no reason at all, for their own personal reason, have access to a privacy proxy server?

The next is what information should be made available under what circumstance. If, for example, you've got – most people would think law enforcement agencies ought to have access to the information so that they can take a site down. The United States, apparently there are people who are contracted to carry out functions for law enforcement agencies. There's a view that we need to have a very expansive definition of what a law enforcement agency is if we're going to say only law enforcement agencies of these particular characteristics get access. That's become another big issue.



I think those are the main issues that have arisen on the list. By the way, I'm on the [inaudible] on the working group. Some of the things that were said yesterday and the people that we had speaking were discussing at yesterday's forum included Kathy Kleiman. She's a lawyer with a lot of expertise in representing people with domain names, particularly those who want privacy proxy services.

We had James Bladel, who is a fairly senior person in the policy area in GoDaddy.

We had Paul O'Grady, who is in the trademark business. Certainly, coming at the issues from an IP point of view, the Internet intellectual property community is particularly interested in having access to WHOIS data so that they can track down those parties they believe are violating intellectual property rights.

A fourth person who was supposed to be there but in the end, the minister wanted briefing from this guy who is fairly senior in the cyber-security area in the U.K., named Richard Leaning. He was the one that provided comments to me the previous evening, and I think I've reflected those on the day.

Starting with Kathy's comments, she basically said there are three principles that ought to govern the privacy proxy specification. The first is access, and that is everybody should be able to use a privacy proxy server if they want and there should be not further test. You can do it. That would accord with a lot of privacy law, particularly in relation to the European Union and their privacy laws – although there are very similar laws elsewhere.



Due process for any disclosure of data so that the party whose personal data may be revealed is given an opportunity to respond in some way if a request has been made for access to their personal information.

One of the alternatives that may be offered would be simply that that person gives up the domain name. Just it's too dangerous to have their personal details revealed and rather than go through that process, just give up the domain name as something that may be offered as an alternative. That has been discussed considerably.

The third was Kathy was suggesting the need for some creative options for remedies.

UNIDENTIFIED MALE: That was one of the [inaudible] just mentioned.

HOLLY RAICHE: Okay, sorry. No, that's not due process, creative options.

UNIDENTIFIED MALE: Correct. Creative options is that one of them was to take down.

HOLLY RAICHE: To take down? Okay. The comment from Paul O'Grady for trademark purposes, the point he was making was not only his view from an IP law viewpoint – which is that any IP lawyer wants to be able to have a way to access people who are thought/alleged to be violating intellectual property rights – but as he said, trademark is also a consumer protection in that there are consumers who may believe that if a



trademark is used, it actually stands for a particular product, a particular brand, a particular reputation. Abuse of that trademark is actually in the consumer's bad interest and it is in the consumer's interest to stop the abuse of trademarks as well as anything.

Some of the things that were discussed at that point that he was talking about would be things like time limits: the need for people to respond to queries, time limits for publishing material or not.

Another thing that's come up a lot is: What are the time limits for verification of personal details? Indeed, that's a very vexed issue. Do you check every year, and what do you mean by "check"? Is it simply that you send out an e-mail and nobody responds and that's enough, and the only time you verify is if an e-mail bounces and then you have to investigate? That seems to be the test that the registrars would like. I don't think it's a test that other people would like.

Then, it was a request from Stephanie to have the possibility of metrics. What do we mean? What are we measuring? What are we learning from the processes?

Now, I have gone a little bit overtime. Carlton, do you want to just jump in with some of the issues for EWG?

CARLTON SAMUELS:

Yeah, I think I could say a few things [inaudible].

HOLLY RAICHE:

That's right. Okay. I've gone through that. Oh, the thing I didn't say about the specification, by the way: there's a time limit of 2017 to get it



done. Everybody had a bit of a laugh until we remember how long GNSO processes take. Then we thought, “God! Are we going to make it?”

CARLTON SAMUELS: I’m going to just [inaudible].

DEV ANAND TEELUCKSINGH: This is all [inaudible] handled between one GNSO working group, these issues?

HOLLY RAICHE: There are two, there are two. The Privacy Proxy Working Group is just dealing with the barebones specification and all of the issues in terms of: Who does the accreditation? What’s the test? Who’s going to say they passed or not?

Then all the definitions of: What material is collected when by whom? When is it revealed? Those sorts of things are things that should go into the specification. I’ve got to say, there’s a lot of traffic on the e-mail after every meeting because every one of these issues is really hard-fought.

The Expert Working Group is the group that the Board invited to take that higher-level look and say, “Is there a better way?” Because WHOIS was part of the original contract way back when it was just a bunch of geeks and WHOIS information was just finding out details about Fred, whom you knew anyway. Well, now, it’s essentially a requirement for millions of people. So the context of that information has completely



changed but we've got this amazing requirement: personal details of registrants shall be known.

CARLTON SAMUELS:

Okay. So I'm going to tell you quickly. I'm just using the deck that we used yesterday for the update so you get a sense of where we are with the EWG work.

Most of you would remember that the EWG, the objective is to develop proposals for next generation registration data services and present it to the Board. From thence, the Board would have worked the PDP (Policy Development Process) through the GNSO.

Starting last year, we – almost, would you believe it? It's almost 18 months since we've been in this. Some good work has been done, I can tell you that. I'm quite pleased with the work. I'm quite proud of what we're doing there. The team is gelling together, and we seem to be getting consensus on some really knotty issues that at first sight, you thought we probably would not have made consensus given the wide swath of interests in the room. But what we find is that people are genuinely committed to making proposals that make sense and move it forward.

We had a status update, and there's a website. Most of you would see it. It's on another slide. I'll tell you about that. Last November, that we took a little break because we felt that based on the comments from the status report and the original report and the status report, we thought we should probably get better information to make some proposals and make some judgments.



So we had a break from then until March, where we went into what we call a research phase. Then during that time, we asked questions of the community and we got some responses. Several of the research areas are up there on the screen.

We wanted to see what the practices were in the ccTLD space about validation and verification of WHOIS data, because most ccTLDs have very stringent processes for validating data and verifying data. Some of them, you have to actually bring in government-supplied ID before you can even get the domain name registered.

We had a survey user accreditation, and the idea is that some of them also run very stringent access requirements to their data and they have users who are – how they're accredited and so on.

Then, we had a cost-model comparison. You will recall that the original report suggested that there were two possible models for this thing: what we call the aggregate model, where you have a single database – you may have replicates of it, but it's a single database logically. Then the other one, which is a federated database, where you could have multiple databases situated in different places and then you have to have an access mechanism that actually pulls data from the databases only when it is required by the user interface.

Those are the two models, and we wanted to see what the costs were if you went with implementing one or the other. We wanted to get a better sense of it. Costs will drive risks and, therefore, we wanted to be sure that when we made a recommendation, we had a better sense of what the costs were and what the risks associated were.



Then, we have the privacy proxy and services provider practices questionnaire, which we sent out. The ALAC has actually responded to it, so we've got some new information and we're looking at it and [inaudible].

The [issue] that you want to know, we are going to do a risk survey. In the next couple of slides, you'll see what the risk survey looks like. That is one of the things that we will need to begin to refine the recommendations and principles.

Remember this: we're focused on input to on-going – well, one of the things we want the report to do is to provide some kind of backdrop to on-going policy development. Holly mentioned it previously. The other one, which is the other one again? There are two working groups running now that has to do with it. We're on the PP side. We don't really do much with the other one. But the idea is that if anything, what we find, given that we have been so careful about generating actionable data, it might be useful as input to those on-going policy developments.

The real thing that you need to take away from this is that we want to make sure that we get as much input from the community as possible. Because you know, there was an early grumbling that, "Oh, it's a top-down kind of thing." People were caviling about it.

If you step back a little bit from just being bruised – well, let's say egos bruised – maybe you'll see that there has been a lot of concerted effort to get input from the community. This is not just us. We've been collecting a lot of input, a lot of data. We've been beating it about and seeing what comes out of it or what we collectively think is the best way forward.



This is where we are. The risk survey is a good one because almost anything that you do now, if you look at the risks associated, you might use the risk or a risk framework to determine what you do going forward. So we are looking about the risks and benefits with the RDS.

If you go to the next slide, you will see – go next slide – we’re sending it to everybody. So we’re expecting everybody in every category of user, in every stakeholder community to look at the risk survey and tell us from your perspective what you think the risk is. Anybody who is impacted by registration data is encouraged to take this survey – anybody. Because that’s the best way for us to develop a risk profile of RDS so we can make a recommendation as to what the possible outcome is from each implementation type.

UNIDENTIFIED FEMALE: When will that be ready?

CARLTON SAMUELS: Well, the survey is out now, so it’s uploaded. We’re hoping that we will have input information back before London so that it becomes a part of the decision. We have a meeting scheduled at the end of April, early May in Los Angeles. That is where we will write the final report. Then, it is hoped that the information from the survey will inform the positions we take in the final report.



UNIDENTIFIED FEMALE: Is there value in sending a link out to everybody here just asking them to go back into their communities? Because I can think of a lot of communities in Australia that I would send the survey to.

CARLTON SAMUELS: Yes.

UNIDENTIFIED FEMALE: Law enforcement, user groups – I just think that might be really valuable.

CARLTON SAMUELS: Excellent. You'll see the link to the survey in the next slide there, please, Ariel. Thanks. Next. So that's what the survey looks like. If you notice how it's set up, it is configured specifically that way because we are looking at a triage operation: what is most important to you, what is middle important to you, what is least important to you? It's very specific as you go along.

Remember this: those are some of the questions we asked that we think we want to know about, but by all means, you can add stuff that you think that we didn't think about. It's very important for you to understand that this is an revise and extension. This is provided on a revise and extension principles. You can actually add to it and then carry on.

Next slide. Yeah, good. This is how it is. That is one of those URL – what do you call them – shorteners there. If you sit on it, it doesn't work very



well. We're going to send it out the big one, the long one, so you'll get to it. I'll send that around. I will send that around.

But it's very important for you to participate in the risk survey. As many groups as you can, as many persons as you think you can you can find to send to the survey and get them to that, it is going to help. It closes May 15, so we'll have a long time to get the risk online survey out between now and May 15. It's going to take a little while.

Two other things that you need to know: we are going to have a series of interactive webinars to give you better information. It's almost as-it-happens information. The best information we have, we're going to share in those webinars. That will be in early April. I suspect we'll have a couple of them before we're done. Before we're done, we'll have a couple of these webinars before we're done.

They are intended to do two things. First of all, they're intended to share with the community what we get from you and validate that. That's the first thing. The second thing is it's going to share the principles that we have developed to get an early warning feedback on the principles that we've developed for all aspects of the RDS.

That's the basis for the webinars. We really want them to be two-way. We're going to give you some information that we have on what we're thinking, what we're trending to, trending to, and we can get early feedback so that we can put the feedback in the formula. That will determine what we put out finally to the Board as a final report.

It's going to be a very intense period between now and London for the group. We have the surveys. We're going to publish the cost-model



data. It actually was well-done, even if I say so myself. I mean, I've been in that business for a little while. IBM got the job to develop a cost model, and they were very thorough. They were very, very thorough. I mean, they looked at some things. You know, I've done these things before, and a couple little wrinkles that I didn't think of. I thought they were very good at what they'd done. We're going to publish it. We're going to publish it.

There's a lot of stuff that has come up from the research phase that we had between December and February, and we're going to publish all that data to the community so you can look at it and see. So you will have a sense of what we know and so you get a sense of why we think what we think. It's important for you to have a sense of that.

I think there's another slide there. That was it? That's the last one? Yeah, that's it. That's where the EWG is. Please, be good to when you get the links to the surveys to circulate as far and wide as possible and respond to it. That's going to be very critical in the next stage. Thank you.

HOLLY RAICHE:

Questions?

DEV ANAND TEELUCKSINGH:

Thanks. Questions regarding the survey: Is the survey translated in multiple languages? How exactly is the survey going to be publicized apart from within the ICANN community?



CARLTON SAMUELS:

I think it's going to be multiple languages, and if it hasn't, we will certainly get feedback to staff to ensure that the survey is done in multiple languages. That's a good idea.

The idea is that it's going to be online, but we're also going to send out paper ones. Yes, we're going to depend on the community, too. The groups that have shown interest in the work so far and responded in the comment periods, we're going to ask them, use them as in-roads into their communities.

That's why I'm saying, for us, it would be very helpful if, when you get the survey, it will be also in printable format. You can actually point people to the link, and you can send people the survey itself so we have it as widely disseminated as possible. That would be very helpful, indeed.

HOLLY RAICHE:

Olivier?

OLIVIER CRÉPIN-LEBLOND:

Yes, thank you very much, Holly. I just wanted to put to the record the fact that I think that when the Expert Working Group was created, there was much suspicion amongst the ICANN community and amongst even some of our members, with regards to what the goals of that working group were.

Especially when there were WHOIS reviews that were going on at the time and WHOIS Review Team recommendations being then after



subsequently being implemented or maybe not implemented. There was a significant amount of confusion on this.

Upon hindsight and after seeing the results and, certainly, the fact that you were appointed to be one of the members of the Expert Working Group, I must say – personally because that’s not something that I’ve discussed with any of my ALAC members – but I’m personally very impressed with the work that your group has done. I just think that it sometimes basically tells you don’t view new things with suspicion. Sometimes things have to be embraced and say, “Well, look. We’ll wait and see what comes out of it.”

I really hope that the findings of this working group are going to materialize in some kind of system that, if properly implemented, will actually make the life of Internet users better than what it is today.

CARLTON SAMUELS:

Thank you, Olivier, for that because I can tell you as I’ve served on this group from the start, and one of the things I’ll tell you is that when you go into the room at first, because you have people from various backgrounds and you thought they would have been there representing communities or interests, you were a little bit wary. I personally was wary and looking to see.

That never happened. I mean, people genuinely – there was a lot of argument and a lot of intense discussions – but in all of that, you got the deep sense that people were looking for a best-fit solution. That is why I’m so impressed and I’m happy that I participated because I’ve seen



people. You have people there who their day jobs are IP lawyers. People from Facebook. People from Time Warner. Michele is there.

But in the end, some really good work was done. These guys, you get the arguments, I mean, strong arguments of people coming because these are not wallflowers. These are not people who are wallflowers at all. But I can tell you, having gone through the process, I am absolutely sure now that what we're going to deliver is going to be a big step forward. I truly believe that.

HOLLY RAICHE:

I can just comment too. I think it was Fabricio, who is obviously quite a skilled lawyer, and he was asked for his comment. Most of what he said was in praise of the process. Most of what he had to say was, "We have had loads of arguments, we've had difficulty." He was so effusive in his praise for the process that had produced agreement where you wouldn't think there would be. Just as in privacy proxy, after everybody finishes hitting everybody, they all get on. He's seeing the same thing.

CARLTON SAMUELS:

Hopefully. Again, we will need help with the survey. We need the survey disseminated as widely as possible because that's the best way to collect data and have a look at it.

By the way, we also have excellent staff support. They have not tried to steer the process. They have truly been supportive of what we ask. Margie Milam and the new lady, [Lisa Pfeiffer]. You know Margie is very good quality staff, but Lisa added to the team and Denise and Michelle and those. They have been really very good at facilitating.



You see them close-up, and we spent two or three days with them at a time working for 12-, 15-hour days, you really see the grit. I can tell you, this is one of the things that I see. That staff support has been excellent, and they have facilitated the process the whole time. Everything we asked of them, they've come back and they've made sure we got it.

Especially in the work, all these research topics, we put out the topics to them. We fashion it. They run with it. Come back with the best. If they come back with something we don't like, we say, "No," and they would do it again. It's been very, very good.

HOLLY RAICHE:

I think everybody is about to pack up and go to bed, have a drink, do something, but thank you. I have to say that it's been a really interesting set of working groups. For those who started off with the WHOIS issue back in wherever – I think it was 5,000 years ago – we've actually come a fair way. Thanks.

OLIVIER CRÉPIN-LEBLOND:

Thank you very much, Holly. Are you finishing your meeting? Okay. So to wake everyone up, I thought I would make a small announcement, which is to basically thank the interpreters for an amazing day of work. Thank the AV staff, as well. We had a few gremlins, which appear to have been resolved, as well. Thank our staff because today was a long, long day. Well done, everyone. Well done. Today is adjourned. Thank you.

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