ICANN
Thick WHOIS Implementation IRT Meeting

Moderator: Gisella Gruber-White
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Coordinator: This conference call is now being recorded.

Gisella Gruber-White: Thank you very much, (Tim). Good morning, good afternoon and good evening to all. Welcome to today's thick Whois implementation meeting with the IRT.

On today's call we have Alan Greenberg, Alex Deacon, Edward Lewis, Jonathan Denison, (Joyce), Marc Anderson, Mike O'Connor, Roger Carney, Sara Bockey, Theo Geurts, Patrick Kane. From staff we have Fabien Betremieux, Berry Cobb, (Chris Depapacs), Marika Konings, Mike Zupke, (Eve Tan). We also just have (Jennifer Gorestand), who has joined us in the Adobe Connect room. I hope I haven't left anyone off the attendance.

And if I could also please remind everyone to state their name when speaking for transcript purposes. Thank you, and over to you Fabien.

Fabien Betremieux: Thank you very much, Gisella.

Man: Thanks.

Fabien Betremieux: Hi everyone. This is Fabien Betremieux. I will very quickly introduce myself as we have, I think, new members of the IRT. We'll come back to that in the presentation as part of our call for expert volunteers.

So I'm the project manager for the thick Whois implementation project. I'm a member of the registry so this is (Team JDD) at ICANN.

And I'm supported by a cross-functional team from ICANN staff. We have representatives from the policy team, the registrar services team, technical services team as well as our compliance individual departments and many of whom are on the call today.

The objective of this call is to share with you the status of the work of the implementation planning as well as providing you an opportunity to discuss. Our agenda - all right, so our agenda is as following. We'll very quickly go through the current statuses of implementation. Then we'll get into the substance of what we call the consistent labeling and displays kind of work. And then we'll address the transition from thin to thick Whois kind work. And finally we'll talk about the next - our next meetings.

So in terms of timing which is the rough guide of the amount of time we should spend on each part, and that should only guide us. And we'll adapt to the discussion that happens in this call.

So let's start with the current status of implementation. Here we just want to share with you where we were at during our last meeting which was on, you know, on (unintelligible) during the ICANN meeting in Los Angeles.

So the four main conclusions were that we agreed to move on and by (unintelligible) the implementation of the two expected outcomes of the policy recommendation. That is on one side entering consistent labeling and display for all gTLDs per Specification 3 of the 2013 RAA. That's on one side. And on the other side the transition from thin, thick for the TLDs that are concerned by this which is that (unintelligible).

Our second conclusion was that we were going to work on the detailed impact assessment for consistent labeling and display of Whois output. On the transition from thin thick Whois -- that's our third conclusion -- we agreed to work into inviting experts from respective parties to assist us in working out the implementation detail of that transition. And we also discussed the legal review and included our expectation of receiving conclusions in (unintelligible).

So in terms of actual plan and timeline here is the timeline we discussed in our meeting. We've - as you can see those two gray boxes representing our two strands of work that we're conducting in parallel.

I'm not going to go back into the details. But this is just to show you where we're - what's our current assumptions for the timeline of these implementation projects. And as we progress through our work we will constantly refine our assumptions in the - in this plan.

So I believe this was it for this first section. Are there any questions or comments at this stage? Please use the Raise Your Hand feature in the Adobe Connect if you want to speak at any time.

I don't see anybody raising their hand so I will move on to our next item on the agenda which is the status and discussion on the consistent and labeling - consistent labeling and display of (unintelligible) output for all gTLDs.

So a bit of background here on the impact assessments that we've agreed upon during our last meeting, this is coming from the policy recommendation, Number 1, which provided the provision of thick Whois services with a consistent labeling and display as per the model outlining Specification 3 of the 2013 RAA, should become a requirement for all gTLD registries, both existing and future.

So this is based on this recommendation that we conducted the draft assessments, impact assessment that we shared with you with a view to, first of all, identify who were the potentially affected parties, analyze the nature and the scale of work that that was going to require in these parties and eventually prepare the development of the implementation plan as well as provide you, as members of the IRT, you know, for treaty, you know, for a treaty for discussing these potential impacts and what that means for the implementation.

So hopefully you've had a chance to review those documents. If you haven't we have here on this slide the main conclusions.

So this is a very high-level summary of our analysis. So I would recommend if you didn't get a chance to review the document, to take the time to at - to maybe at least read the Word or PDF document which I think is only a few pages long.

But so just to give you this high-level summary, we have five main conclusions. The first one is that all thick gTLD registries, so new gTLDs and

pre-2012 TLD - gTLDs, will have to collect and add new registrar data to their output and that in particular the reseller information and abuse contact. And that's a fairly high impact because that will require a potential change to the EPP interfaces.

The second fairly high impact we've identified is that for most gTLD registry - thick registry, gTLD registry is already existing. And legacy pre-2012 those will need to add also new registrant data to their output. And that's some contact information as well as the (unintelligible) status.

And indirectly because of the impact on these registries, registrars that are distributing names for these registry, whether they're RAA 2009 or 2013 they will need to provide this new data to registries. And so that again impacts the registry - the registrars -- sorry -- although we'll see in the next slide that we have an open question to understand why they're - the registrars are subject to the policy or now.

Sorry to - I mean in the sense that they also would need to move - especially for the registrars under RAA 2009 move to the Spec 3 of the 2013 RAA for their Whois output.

So our last two main conclusions, we've also identified if - some kind of lower-intensity impact that most contracted parties that are affected by this aspect of the policy will need to adjust the ordering and how they name some of the appeals. There - these are lower impact because they may not require as complicated software development as the other impacts would.

And finally we've also looked at the third parties that uses the Whois outputs on a regular basis and who may need to adapt whatever tools or processes they use to complete this.

I see that Marc has raised his hand. Do you want to go ahead, Marc?

Marc Anderson: Yes. Thank you. This is Marc Anderson.

I do want to jump in at this point on this point because it's saying, you know, as you pointed out in your assessment this is a high-impact item. And, you know, I know there are a number of people from the thick Whois working group that can maybe jump in on this. But I think this is really an unintended impact from the thick Whois working group.

We, you know, I don't want to speak for everybody else. But we intended to have a consistent Whois output but not necessarily exactly the same. And adding the registrar abuse contact information and reseller information is very impactful to, I think, all registries and registrars. And it costs, you know, this'll this is - we're talking real dollar amounts cost - costs associated with implementing this.

So I'd really like to delve into this a little bit more cause I think this is unnecessary and, you know, really not what we intended from the thick Whois working group.

Fabien Betremieux: Thank you, Marc. I think I saw two other hands being raised. One was (Howard) and one was Mikey. (Howard), did you want to speak to this?

Okay. So then Mikey, want to go ahead?

Mike O'Connor: Thanks, Fabien. I bet (Howard) did what I almost did and hung up. I came dangerously close to that.

This is Mike O'Connor. I've changed my name back to Mike just for - just to keep you on your toes.

And let me chime in behind Marc on this. I think that's exactly right. The goal of the thick Whois working group was primarily driven by the need that came out of the IRTP C, I believe, where what we were really trying to get to is the ability of a gaining registrar to learn details about - from the prior registrar or the exist - the current registrar, depending on what term you use, about the registrant.

And so I'm going to defer to other like Marc who understand the impact better. But I think in terms of the policy goal it's not necessarily going to advance the policy goal to add the - those other fields. And so I would cheerfully sort of go along with a conclusion that said consistent but not identical.

I think the main goal is to get to the ability for registrars to exchange information in thin Whois circumstances while the transition to thick is taking place. Thanks.

Fabien Betremieux: Thank you, Mike. Thanks for contribution and for it to be (unintelligible). I can confirm.

So I saw (Joe) raising his hand and Alan as well. Do you want to go ahead, (Joe)?

(Joe):   Yeah. Thanks, Fabien. So I would just add to the points that Mike and Marc made that I think that the GNSO is already undertaking a complete review of all of the recommendations from the Whois expert working group recommendations. And I think that there are a number of new contact types.

So I think that this is appropriate to take, you know, those contact types for reseller information and abuse contact and allow that to work through the GNSO process as it relates to the EWG work that's going on.

And we're - we are, as Marc said, still in alignment with ensuring that the thick Whois responses that the registries give are consistent but not necessarily identical. So I just wanted to kind of toss it out as I think that work being done within the GNSO is an appropriate way for that to be addressed.

Fabien Betremieux: Thank you, (Joe). Alan, you want to go ahead?

Alan Greenberg: Yes. Thank you very much. It's Alan speaking.

Actually I'd - I had originally just put a tick mark up agreeing with Mikey. But I'll put a few words in.

I very much agree with Mikey that -- with Mike, sorry; it's going to take a while to change back -- to - that we need to remember why this PDP was done and what the recommendations were. It is - there are so many other things going on in - with regard to Whois or whatever it becomes, some of which we know about now. And this is an example, some of which will be coming up.

It's going to be very tempting to try to incorporate other things into our plan. And I think we need to be very careful to restrict the ancillary things we do to those that are really necessary to accomplish the original thick Whois goal and not put other things in which might be nice to do at the same time.

There's certainly a synergy in doing things at the same time. But if we're not careful it becomes a monster which is never going to be completed.

It already probably has the longest implementation time of any PDP other than the new gTLD one. And I think we need to be careful about it not growing even more complex. Thank you.

Fabien Betremieux: Thank you, Alan. Mike, you want to go ahead.

Mike O'Connor: I just want to add to what Alan said. I think one of the things that I have been reflecting on in these IRTs is the temptation to add policy or add things to a policy that's being implemented. And I'm going to take a fairly conservative view as just sort of a general stance that says let's - just to amplify Alan's point let's be really careful about adding things during implementation of policy so just to amplify that. Thanks.

Fabien Betremieux: So thank you all for your comments. I think as an immediate reaction what I want to share with you is that we absolutely didn't have any intention to add policy to policy.

I think our - the assessment is the exact opportunity we're looking for to discuss this with you. Our reading of the recommendation may have been too strict in this sense, if I what you're - you all are saying.

So again we are hearing you. And we will continue working on this.

Mike, do you want to speak again?

Mike O'Connor: This is Mike. Yeah. The - I think the thing - Marc kicked it off right. I don't think that we in the working group were aware of the consequences of what we were writing at that time.

So, you know, I just want to lift some of the burden off your shoulders. I don't think it's a matter of perhaps being too strict in your reading. I think it's more a matter perhaps of our policy not being completely aware of some of the consequences of what we were saying. And so we're trying to sort of mitigate that in this conversation.

Fabien Betremieux: Okay. That makes a lot of sense. Thanks, Mike.

So let me move on if there are - if there aren't any other comments. Anybody else?

Okay. So let's move on to the next slide which is - maybe before this let's jump to the next steps.

This is -- I'll come back to the open questions -- this is just to tell you that we, you know, we intend to revise this impact assessment as needed to get to a final version of it, you know, hopefully in January - no later than January. So then we can move on into drafting and implementation plan which would mean, you know, starting to write the condensed policy requirements, looking to a schedule as well as whatever measures we should implement to support the - this implementation by look at the party.

So this is just to give you an idea of sort of the timeline. Hopefully we'd have a - some draft of the - of all or part of the implementation plan by ICANN (525). And hopefully we get through a cycle of conversation, discussion and revision and so we have the final version of the implementation plan by April, May for announcement in June, July, 450 day, six months later.

Is there any comments on those next steps and the timeline? Any comeback to open question? I see that, Alex, you've raised your hand. Want to go ahead? Alex, are you muted maybe or do you want to go ahead?

Okay. Well Alex, please interrupt if you want to jump in on this.

So let me just quickly go back to some of the open questions we had from doing this assessment work.

The first question that occurred to us is should the thin gTLD registries, so the come - that met the job be involved in the consistent labeling in this (unintelligible) of our work at this stage. You know, we are aware that this - it would mean potentially two pieces of work for these and the parties involved in those TLDs registries and registrars. But we were wondering whether this could potentially be a - an implementation step which could somehow help what would eventually come which is the transition from thin to thick.

So that's our first question. Then - and we have actually three questions but I made two groups because the other two questions are related to whether the policy is actually also targeting registrars or not.

So I think what the policy makes clear is that it targets registries and the Whois output of gTLD registries. But we've seen that, you know, it does impact registrars indirectly as we mentioned. And we were wondering whether we should be concerned with a direct impact to the registrars because then there would be impacts on the specific registrars that are under the RAA 2009 for legacy TLDs as well as potentially registrars of the thin gTLDs I just mentioned.

So do - does anybody want to discuss one of these topics? Mike, please go ahead.

Mike O'Connor: I think I'm going to discuss all three of these at the same time and basically go back to what I said in the last section which is that the main goal, at least when we were writing the policy, was to allow registrars to look at the registrant during transfers. And so following that thread then in a thick registry the registrars can already do that. It's the thin registries that they can't.

So to answer Number 1, I think the answer is probably not because thin registries don't get the information that's needed. That information only resides at registrars.

So then that says to the answer to the Number 2, yes, I think they are or should be because that's the goal of the policy is to allow registrars in thin registries, you know, when dealing in transfers in thin registries to see who the prior registrant is so that they can determine change of registrant. So I think yes.

So Number 1 is no. Number 2 is yes. And thin gTLD registrars, I think the Numbers 1 and 2 of the second group are both yes, at least in my memory of the policymaking.

Fabien Betremieux: Okay. Thank you. Thank you, Mike.

Roger, do you want to speak to this? Roger, I saw a hand raised. Did you cancel it maybe?

In any event does anybody else want to contribute to the discussion, react to what Mikey was saying? Marc, please go ahead.

Marc Anderson: Hi. This is Marc Anderson.

Yeah. I, you know, agree with what Mike said. With the first one, you know, we want to avoid duplication of work, right? So I think, you know, the right answer here is to combine the, you know, the (C), (L) and (D) work as part of the transition from thin to thick. That cuts down on the churn and, you know, allows, you know, allows the consolidation of efforts. So I, you know, I think that certainly makes sense.

I must confess on the first one I'm not all that familiar with the ramifications between the, you know, the 2000, you know, registrars on the 2009 RAA and the, you know, the subsequent 2013 RAA. So that might be a better question for registrars. You know? I know we have some on the working group here. You know?

But, you know, certainly, you know, again we want to minimize the impact here. And to the second, you know, the second point on registrars, you know, I think it, you know, again I - they're going to, you know, they have a transition from thin to thick as well. So I think it would make sense to, you know, know, again combine those efforts when possible. Thank you.

Fabien Betremieux: Thank you, Marc. Alan, did you want to jump in?

Alan Greenberg: Yes. Thank you. Two administrative things. I don't know if someone on staff is accepting hands when they go up. Please stop doing that. The hands disappear. The or - the speaking order disappears. And it gets very confusing.

Fabien Betremieux: Alan, just to respond to your administrative point, this is me that's doing that out of - and I'm actually trying to understand why the hands are not staying there. Sorry.

Alan Greenberg: Yeah.

Fabien Betremieux: (Unintelligible).

Alan Greenberg: It's related to Adobe Connect. And if you're speaking on Adobe it turns on your microphone. But ignore those little boxes. It's also somewhat confusing to have a slide with two ones on it.

However, onto the open subject. I guess my quest - the question I would do is phrase the questions in reverse. What is the impact of not - of having them not subject to this and is that something we can live with from the point of view of this policy or not? You know?

Again if the rule says they need to be subject to something and in - they may be in violation of something as a transition part, you know, in the midst of the transition then maybe it's acceptable. Other than that I don't think we want to be in the business of altering policies and all, you know, altering parts of the contracts.

Fabien Betremieux: Okay. Thank you, Alan. I think you're raising a great question. And also yes I'm also the culprit for having two ones on the slide and I apologize. Mike, did you want to jump in?

Mike O'Connor: Yeah. This is Mike. I'm changing my mind on my answer to number - the second Number 1, the middle one on the page. And that is I finally - the coin dropped here.

For pre-2012 thick gTLDs, I don't think that we, from the policy standpoint, care because remember, our goal is to - it's to allow a registrar to find the registrant, the current registrant. Well in a thick registry they can do that already. They can go to the registry for it. They don't need to maintain that data themselves. And so as a result I think Number 1, in keeping with everybody else's point that, you know, let's make the work as light as possible, I don't think that registrars need to do work on that one.

The one that's important is the Number 2 which is then a question of timing. And it maybe gets a little bit ambivalent. I think that the - again, the policy goal was to make registrant data visible in thin registries.

And, you know, it may be that there's a judgment call here depending on what the timing of the transition is. If the timing is going to be about the same for CL&D as it is for the transition to thick, it may not be worth the work.

If on the other hand the timing of CL&D could be a lot sooner and registrars could start identifying prior registrants sooner, that would be a good thing. But I think that's the one that needs to be thought through as the planning actually gets done.

Fabien Betremieux: Thank you. Thank you Mike and I think that's a great point in terms of the timing. What we're trying to (unintelligible) what we're trying to do is, you know, potentially bring some outcome, you know, achieve some of the outcome of the policy until we can achieve the entire policy knowing that the transition from thin to thick Whois is complex to design any of those, so and will be long to - most likely fairly long to implement.

(Jennifer), do you want to speak to this?

(Jennifer Gorestand): Yes. First of all, I want to say this is my first time joining the working group. So I apologize if this question's been asked previously. I represent register.com in network solutions as far as retail registrars.

A question related to the Number 2 on the document is has the working group determined how many registrars remain on the 2009 RAA to understand whether or not this is an edge case or what's the population of registrars that would be affected by enforcing registrars to adhere the recommendations of the Thick Whois Policy Working Group?

Fabien Betremieux: Thank you (Jennifer). So I think, and let me - and I think we have (Howard) onboard. Please (Howard), correct me if I'm wrong. But I believe it's in the range of 300. Am I correct? I think that's the type of numbers we had. I'm sorry I don't have that right under my eyes right now. But we could in any case come back to your question. But I think that's about the scale of what we're talking about.

(Jennifer Gorestand): And...

(Howard):   Yes. That's about right. Yes.

(Jennifer Gorestand): My follow-up question to that (Howard) would be out of the 300 remaining, how many are actively - are active registrars and what are the expiration dates forthcoming on those contracts? Because I do realize many of them are coming due for expiration.

(Howard):   Yes. Actually a lot of them will be renewed next year - with Intershare next year. There will be - most of them will be renewal. But there will be some (extreme) that will go to 2016. Yes. And also when we say active - let's say

they're all active but how many names that they are managing, it's not a lot.

Yes. Most of the names are right now under the management but 2013. It's...

((Crosstalk))

(Howard):   ...about 90% of names that are managed by a 2013 (RAA).

(Jennifer Gorestand): So the assumption would be that X percent by the end of 2015 would still remain on the 2009. But, you know, that percentage would be far less than 300 by the time...

(Howard):   I would say so. Yes.

(Jennifer Gorestand): ...these policies would be implemented.

(Howard):   It depends on our timeline, yes. If for the current timeline is about that, yes.

(Jennifer Gorestand): That's all I - that's all I have.

(Howard):   Okay.

Fabien Betremieux: Thank you (Jennifer). Thank you. I saw that - sorry, (Joe). (Joe) had raised his hand. Did you just put it down or was that an error?

(Joe):   No. I put it back down. I was just going to suggest that we move on. Make - I want to make sure we get to the legal review.

Fabien Betremieux: Yes. Thanks for this reminder. We do want to get (there), absolutely. Thank you. Alan, you want to go ahead? Maybe that will be the last intervention on the subject.

Alan Greenberg: Yes. Thank you. And I'll be very quick. I really think that when we're presented with questions like that we should have the kind of data we're talking about now in front of us so we can make reasonable decisions and not have to speculate on exactly what the impact is. That's Number 1.

Number 2, my recollection is on the new .com contract there's a provision similar to the one in the new gTLDs that once a certain threshold of domains are managed by 2013 registrars the others must convert within a year. If I'm correct and I'm remembering it correctly, then that pulls the threshold back in way before 2016. So thank you.

Fabien Betremieux: Thank you Alan. And if, you know, if we can't provide the precision on these numbers right now, in any case our goal would be impact assessments to provide that type of information. So please we welcome your comments and, you know, don't hesitate to make those comments on the document as well.

Thank you. So I see a hand raised for (Jennifer). Is that an old hand or a new hand?

(Jennifer Gorestand): Sorry. That's an old hand.

Fabien Betremieux: Okay. Thank you. So let's move on. So we talked about the next steps and the timeline. So we'll work on that. So let's move on now to transition from thin to thick Whois and that (strain) of work.

You remember that we reached out to the IRT requesting for your assistance with (this call) expert. The intent was to gather expert - resident experts from affected parties to work with us on the implementation details from the transition from thin to thick Whois. We did several outreach to the Registrar

Stakeholder Group as well as to all the registrars. And so far we've received responses from 12 volunteers representing ten registrars.

They've all received some kind of welcome package and final report as well as our - the recording of our session in Los Angeles to help them with onboarding.

And we've added them to the IRT mailing list until we eventually refine the mode of engagement. But most likely unless somebody or the group suggests otherwise, they will, you know, be part of the IRT and be welcome to join our meetings.

So the list of those volunteers is on our Wiki page. And what's on our plate on our site in terms of next steps is to initiate a discussion on this - on substance for, you know, this transition implementation. And so we have yet to determine exactly when we're going to start this and with what frequency we'll organize those specific calls.

So unless there any questions or comments on this, I will move on to the legal review. I don't see any hand raised. So I will move on.

So the legal review. You may remember from our timeline and our very high-level project time that legal review is on the critical path of the strain of our work. And you may remember or will see in the archive and the mailing list that we shared a memo of this - on the scope of this legal review. That was shared prior to ICANN 51. So there has been a lot of work going on there.

And right now we have preliminary conclusions. We were hoping that we could get to a more finalized state. But it is taking more time than we thought given the challenges of this analysis.

I'm sure that you all know probably even better than I do the complexity of this issue. So this is one of the reason why it's taking more time. And also there is a lot of work - a lot of parallel activities that are relevant to the subject as well; be the review of the Whois requirements and (national) conflicts procedure for the EWG.

And this is, you know, causing that we're only with primary - preliminary, sorry, conclusions right now. So those preliminary conclusions are based on the review that was done that the is - the initial review has been done and is currently still ongoing on the EU law as well as some considerations of general data protection issues that may arise with the transition.

So those preliminary conclusions are the following. So basically the main takeaway at this stage is that most likely the condition of the transition will require a lawful basis for handling of the data in terms of disclosure or transfer and retention.

And one way of achieve this could be through the insertion of new clauses in registration agreements, which would address legitimate use for purpose communication and require consent from the registrants.

And then another mechanism that could be relevant is to use safe harbor provisions, which would automatically - either automatically waive restriction or grant approval for transfer of data.

And that's again coming from the EU framework that we looked at first because you may remember from the EWG memo that was shared during the policy work that, you know, the EU framework was foreseen as being possibly one of the most stringent in terms of data protection.

And so what we - one of the takeaways and one of the reasons why the analysis will take more time is that there may be some laws or potential laws that are being considered in some jurisdictions of specific countries that may require special consideration because they may seek to impose specific obligations with respect to storage or processing of information relating to the borders of a particular country and restriction around the area.

So this is pretty much the preliminary conclusions we can share this stage. I see Alan hand's raised. You want to go ahead Alan?

Alan Greenberg: Yes. Thank you. Unless I'm missing something, most of these considerations are applicable to TLDs that are thick or are going to be starting up as thick in relation to new gTLDs and will have to be address in those. What are the specific conditions associated with those under transition that are different?

Fabien Betremieux: Alan, thanks for your question. It is difficult for me to answer this question. I'm not even sure I'm understanding fully. So what would - I just want to raise here what we have done with this analysis and we're really taking - we're considering specifically registries are transitioning.

So we're not considering existing fixed gTLD registries. We're considering specifically the context of the transition from thin to thick. So I don't know if I understand correctly your question and you may want to potentially rephrase it if I may ask.

Alan Greenberg: I will try. Issues like data retention transfer out of jurisdiction. If that is going to happen with a transition thick registry, then chances are it is also happening with other registries.

Now I understand there may well be some registrars around that only deal with the three registries in question here or a subset of them. You know, that's certainly conceivable. And I understand the impact on them.

But for a registrar that has - that handles other gTLDs, would they not have to address these issues and ICANN have to address the issue as we are with the various waivers we're generating right now for certain registrars in certain jurisdictions? And that would be as applicable to the transition one as it is to the old one.

You know, I want to make sure that we're not trying to tackle separately here problems that are being addressed in the regular course of events for all the other TLDs.

Fabien Betremieux: Thank you Alan. I think I understand more clearly your point now. And, you know, we are - we're definitely very aware of that and conscious of that. We don't want to be, you know, considering issues that are not specific to a transition. But what's happening is that we're potentially seeing things that may have impacts, you know, beyond thick Whois.

So that's a concern. That's part of the complexity of the analysis. And so I will make sure that I report your point to our legal department. So yes. Thanks again Alan.

And (Amr), do you want to go ahead?

(Amr):   Yes. Thanks Fabien. This is (Amr). I'm not completely sure about how it works if some of these legal issues were addressed using consents obtained from the registrants. If it was as simple as that, I'm not sure how or why

certain waivers to, for example, data retention might be necessary in order for registrars to conform with national laws.

And I was wondering - going back to the last slide of the need for experts. I was wondering why there isn't an outreach being done now or a call for experts to people who are actually experts on the issues of data protection and privacy, for example, with (NDUs) such as for example data for action privacy commissioners in different use states.

I ask this because well we went through a pretty exhaustive process in trying to answer these questions to output PDP. And we found ourselves to not be able to. It's a lack of capacity to answer these questions even after public comment.

So we - this is not just in relation to the - key to working group members but also the rest of the community including any experts that might have been out of example from registrars. So in order to get the definitive answers to these questions, I'm just wondering why there hasn't been outreach to experts in these fields. Thanks.

Fabien Betremieux: Thank you (Amr). So this is, you know, this is handled by the legal team. They, you know, obviously they're talking to, you know, experts. And so I believe that, you know, so I can't re-answer questions and I see that Krista is waving a hand. You want to go ahead Krista maybe?

Krista Papac: Sure. Thanks Fabien. This is Krista Papac from ICANN staff. So thanks for the questions (Amr). To your first question about - based on things that came from registrants and actually if I can just put a disclaimer that I'm not a lawyer, which I think most of you probably know that.

But that being said, I think the - again these are preliminary conclusions. And what we're trying to communicate here is that this can, you know, this transition from thin to thick and, you know, requires a lawful basis, et cetera. It can be established in one or more of the following ways.

So I don' think that that particular bullet point is meant to be exhaustive or all inclusive. And I think that, you know, there's - we've come up with our work so far - the legal department's work so far has produced at least these three potential avenues. And we're saying there's potentially even more than that. So that's to the first part of the question.

As far as the second part, and I think Fabien actually answer it as far, you know, as far as reaching out to experts. Our legal department is heading up this effort for obvious reasons. It's a totally legal review. And they are reaching out to experts and, you know, using other resources rather than, you know, other resources beyond just the internal legal department at ICANN.

Fabien Betremieux: Thank you Krista. (Amr), do you want to respond?

(Amr):   Yes. Thanks Krista and thanks Fabien. This is (Amr) again. Would it be too much trouble to try to learn more about the details of the correspondence between ICANN legal and the experts that you mentioned? It would have been helpful to at least have a bullet her pointing out that there were experts also recruited or sought out to answer some of these questions. But I'm glad that there have - that this has been done.

And I'm also wondering going back to Alan's question on the difference between existing say registries and those that are under transition now, would something like a consent obtained from the registrants make a difference in

terms if registrants register a domain name using an already existing thick Whois registry?

Are registrants actually giving this consent beforehand as opposed to those under transition where there's some - this consent needs to be actively obtained before the transition can take place? Thanks.

Fabien Betremieux: So (Amr), what I suggest I do with it I take back your questions to our legal department and we get you an answer. I want to take the opportunity you are mentioning, you know, some details of all this. I've been working hard with our legal department to provide - to share a document with you.

So let me talk to them and see if there is anything we can add to the document that has been prepared and that we are going to be sharing with you after this meeting. And please excuse me if I'm unable to answer exactly your question. But we will - I will take it back. (Joe), do you want to go ahead?

(Amr): Thanks Fabien. That's great.

Fabien Betremieux: Thank you (Amr). (Joe), do you want to go ahead?

(Joe): Yes. Thanks. Thanks. Thanks. I'm going to echo Krista's disclaimer that I'm also not a lawyer. But and I also wanted to extend appreciation for the registrars that have joined the group because I think that was important for this exact reason.

Part of what we had heard in a lot of the discussion I think going back to at least through the PDP Working Group from registrars in our discussions was that there are differences in the registration agreements.

And while registrars that have registration agreements for the new TLDs or have - TLDs that have been thick from the beginning, the terms for each of the TLDs that they register there often, a base agreement and then callouts for unique components for each different TLD.

So I think this is really a case for, you know, registrars to look at registration agreements that they've got with their registrant and ensure that, you know, that these issues are addressed.

Some registrars have said that their local laws will allow them to just make an update and then it take effect after a certain amount of time. Others need to get explicit consent from each registrant.

So I think this is really a complex issue that really is going to vary based on each registrar and the jurisdictions where those registrars operate. So that's why I think that this is an important issue and I do think that, you know, the results of the legal analysis are important but also the engagement from the, you know, the registrars are going to definitely be impacted by this.

Fabien Betremieux: Thank you, (Joe). And I want to take, you know, advantage with what you're saying to just very quickly say before we get to (Jennifer)'s comments or questions that we would like to get your feedback and any questions you may have or topics we - you think this and I should not need to consider because we want to include this to the discussions with those experts that we are relying on for this part.

So with that, (Jennifer), do you want to go ahead?

(Jennifer Gorestand): Thank you. And thanks (Joe) for your comments. And I think it's important that registrars do chime in on this particular issue.

The one piece that I want to just comment on is around the active consent. If that is a - has been deemed to be a viable option within some jurisdictions. As a register it - I have some concerns around that and the reason being is registrars are now responsible to get active consent around domain verification. And they were experiencing some - obviously some issues around that.

So I'd like to just make sure that if we do hone in on an active consent as an option to understand the attributes associated to it. Is active consent based upon where the registrant is located, where the registrar terms and service, applicable law, under what state, what country. There's a lot of things for consideration there.

So I just want to make sure that if we're heading down that path that we thoroughly think through what the process is and the definitions of it.

Fabien Betremieux: Thank you, (Jennifer). And I can confirm that issue is exactly the intent. We want to look at all these consequences and all of the complexities. And that's why it's taking more time than we thought it would. And I will make sure that your, you know, exact comments is carried to the legal department to make sure that, you know, so that my confirmation is confirmed by legal department for sure. Thank you (unintelligible) that.

Is there any other questions? I see that we're running out of time. I just want to very quickly come again to this next steps for the new review. We're going to target to complete the analysis by ICANN 52 during which we are going to meet.

And again, please share with us any other comments or questions or suggestions you have for us to integrate into our discussions with those experts we're working with.

Just a quick comment on the impact of this delay on our timeline. So you can see here that I've adjusted where, you know, the legal review falls into the timeline and the impact that that's going to have on the discussion with the experts for the design of the implementation plan.

What we're going to try to do, and that's what we're going to be working on with the project team, is to suggest ways to start engaging with experts on these issues we're seeing from the legal analysis and start identifying potential solutions in the face of those issues we're finding.

Next our team meeting - so our next meeting is planned for 18 December. I see (team meeting is) same time as today. Here are the few agenda points that we would discuss. And we propose that the following meetings happen on 15 January and 12 February during the ICANN 52.

If there area any comments - I see a hand from (Jennifer). Is that an old hand?

(Jennifer Gorestand): Sorry, yes.

Fabien Betremieux: Okay.

(Jennifer Gorestand): Sorry.

Fabien Betremieux: So with that, we're at the top of the hour. Unless there are any other questions or comments, I would like to extend our appreciation for your time today and for your engagement with us. And we're looking forward to

continuing to work with you in preparation for our next meeting in two weeks. Thank you very much.

Woman: Thanks everyone.

Man: Thanks Fabien.

Fabien Betremieux: Thank you.

Man: Thank you.

Man: Thank you.

END