
DENNIS CHANG:

Hello, everyone. This is the Thick WHOIS Policy Implementation Meeting with the IRT on the 27th of September, 2016. Greetings.

We are going to start with our agenda. There's been several suggestions to the agenda, and this is what we have as of that at the moment. First we're going to talk about the revised CL&D Consensus Policy, the request for reconsideration, and our proposal [forward]. Then we're going to talk about the draft document for the Thick WHOIS Transition Consensus Policy, and then the memo to the GNSO Council on privacy and WHOIS conflicts, procedure, and escrow of contact data that Mark has recently added to the agenda.

Any comments on the agenda in this order? Hearing none, we will proceed with our first topic.

We have sent out the revised CL&D Consensus Policy document. You noted that it's rather a simple change. We are waiting to hear from you all on what your impression is.

Does this work? I know that Marc has supported it – the change in the e-mail. We want to hear from you if there's any other comments on this.

Go ahead, Theo.

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THEO GEURTS: Thanks, Dennis. Yeah, like Marc put his support in his e-mail, I think also put out my support. This looks very forward, so far, and from what I've seen, it's going fine. So I think we're on the right track there. Thanks.

DENNIS CHANG: Thank you, Theo. Anyone else? I'm going to turn it over to Francisco. He's been getting some feedback from the technical community, so I'll let him talk to you about that. Go ahead, Francisco.

FRANCISCO ARIAS: Hi, everyone. This is Francisco Arias from staff. I forwarded the e-mail that Dennis sent to the IRT mailing list. I forwarded that to a couple of mailing lists. In one of them, there has been some discussion. I'm talking about the IETF registration protocols extensions mailing list. That's the mailing list that deals with EPP and RDAP issues. There's an e-mail thread and there's some comments from the community.

I guess I can summarize what we have heard so far as saying that there was a bit of a surprise on the proposal to remove RDAP and there was another surprise on some of the things that were mentioned in the request for reconsideration. For example, the argument that implementing RDAP will not be commercially feasible.

What else did we hear here? There was also mentioned from [Reuben], for example, that the [inaudible] was elected to the implementing the profile, not implementing RDAP. But there was a counterargument saying that that didn't seem to be that big of an issue.

There was also pointers that the five RIRs – the recent deal with IPs – they have already implemented RDAP with no issues.

But I guess the main point was that there was some surprise in making this happen, and there wasn't an all clear place where they could provide input on these. So I guess a little bit surprise on not having a proper [inaudible] comments. I wonder if that's something that needs to be revised. Thanks.

DENNIS CHANG: Any other comments from anyone? Go ahead, Theo.

THEO GEURTS: Thanks. Yeah, basically that's just what Francisco just brought up; that we're essentially the point from the Registry Group which had the support of the Registrar Group. Basically, what has just been mentioned were exactly the issues there, and I'm glad that we are going to fix these issues and move forward there. Thanks.

DENNIS CHANG: Anyone else? Okay. Thank you, then. Thank you for your review and your comments. We will proceed to the next topic.

Just a reminder that this is a timeline we're looking at for the transition implementation path: two effective dates for new registration and existing registration and some intro milestones.

This is a public comment readiness somebody [inaudible]. At the last meeting what will happen is our normal process of going to public comment as soon as we all agree it's ready.

Let's look at this. DP. Let me bring this up. We have a clean version. We had adapted the new definition for Thick. We have gone down and removed the items that referred to RDAP, and the only thing that I – whoops. We added the link to the implementation notes. On 3.1, where in the past it said, "Starting 1 of August," I changed that to, "Between 1 August 2017 to 1 February 2019," to be consistent with what is said on the registry side.

Marc, I posted the language that you had suggested on the e-mail on the chat there so everybody can see, along with this. You were suggesting that we add it to 2.11 as a new section. Correct?

MARC ANDERSON:

Thank you, Dennis. Yeah because the billing contact just isn't dealt with anywhere. Yeah, I'd like to have it in there, just so we have clarity. I propose just a new section, 2.11, at the tail-end of Section 2.

DENNIS CHANG:

It seems to be consistent with what we're doing anyways. Anybody have any objections to just adding 2.11 for clarification's sake?

FRANCISCO ARIAS:

I think it's 211.

DENNIS CHANG: I mean 211. 2.11. Go ahead, Steve.

STEVE METALITZ: I don't have any objections to this language because I think it also accommodates a situation in which the registry is obligated to display billing contact data. Then it would define it as required.

DENNIS CHANG: Good.

STEVE METALITZ: So I was pointing out on the list that there are such registries. Thanks.

FRANCISCO ARIAS: To that point, Steve, I failed to reply to that e-mail, but remember that what we are doing here is we are uniforming the output of the registries. As a matter of fact, CL&D – sorry. Not these policies, but the CL&D policy that's already out is normalizing the output, so those registries – I think you mentioned .mobi, if memory serves here?

STEVE METALITZ: Mm-hmm. .mobi.

FRANCISCO ARIAS: .mobi will move to... CL&D policy will move to use the same output as the new TLDs.

STEVE METALITZ: Okay. Is the contact going to be changed? Because that's not what the contract says.

FRANCISCO ARIAS: Well, I'm not the lawyer here, but my understanding is that consensus policies trump what the contract says. In any case, I think .mobi is due for a new one soon. So that would be a good opportunity to play the contract.

STEVE METALITZ: Okay. Yeah, that may well be. I'm just pointing out that that's their contractual obligation as of right now. Thanks.

FRANCISCO ARIAS: Okay.

DENNIS CHANG: Marc?

STEVE METALITZ: And they're not the only –

DENNIS CHANG: Okay. Yeah, we understand that. Thank you, Steve. Marc, go ahead.

MARC ANDERSON: I think Steve makes a good point. I think maybe we can just tighten up the language and say – in my first sentence, I said that the billing contact is optional. Maybe we can just clarify that sentence in saying, “Unless otherwise” – I’m just thinking on the fly here, but something along the lines of, “Unless otherwise stated in the applicable TLDs Registry Agreement, the billing contact is optional.” Something along those lines because I think our intent is not to change policy here. I think it’s just to clarify it.

So I thought Steve brought up a good point, and we can just maybe tighten up that language a little bit to make that clearer. Thank you.

DENNIS CHANG: Okay. Yeah, I agree. Okay, let’s do that. I’ll go ahead and our say it on our next revision to you guys.

Now Alan has his hand up. Go ahead, Alan.

ALAN GREENBERG: Thank you. I just wanted to point out that there are a fair number of variations in what is displayed on WHOIS and what is stored. There are [RSEP] modifications to agreements to add specific things that are unique to a given registry. .nyc added some fields which have to do with making sure that these are New York City organizations.

So what is in the Registry Agreement is the base. In theory, things could be removed from it if there was an RSEP that modified the agreement of that. And certainly things get added to it. So everything is subject to the variations within each Registry Agreements.

DENNIS CHANG: Okay. Thank you for that. Next is Francisco.

FRANCISCO ARIAS: Thank you, Dennis. Just to provide some information there, I think there are very few registries that have that variation in their output. Like I said, the CL&D policy is making everyone to be the same base. If memory serves, there are only four TLDs now that have added fields like .nyc. So applicant TLDs [inaudible] – sorry. The other one. So I think those are the only four TLDs that I remember that have added output.

In any case, the last three there simply in the [inaudible] with something that is going to be an optional field for everyone.

DENNIS CHANGE: Steve says he found five. This one.

FRANCISCO ARIAS: Yes, but I think, Steve, you're referring to legacies. My understanding is that CL&D policy is overwriting what they had in their agreements to say the new base output is this. In that sense, the billing contract will become optional and not a requirement. It will be up to the registries

to make their requirements to registrars, of course as to the language that Marc proposed.

DENNIS CHANG: Go ahead, Marc.

MARC ANDERSON: Thank you. I guess maybe I need to relook at this. I didn't really consider that the CL&D would remove the requirement to display billing contact for TLDs that have in their contract – yeah, I guess that hadn't occurred to me at all. If that's your interpretation – I guess I'm not opposed to that at all. I'm not concerned about it. It's just that wasn't my interpretation. I hadn't thought about that. So I guess that's something I'd like to go back and reread.

FRANCISCO ARIAS: Okay.

DENNIS CHANG: Cool. Okay. Let's see. Yeah, go ahead and do that, Marc, but can you do it quickly? Theo, go ahead.

THEO GEURTS: Thanks. So what are we trying to actually solve here? Is there a problem if the billing contact is not present or if it is present? What is the issue here? I thought we had language that was sort of okay with everybody. Thanks.

FRANCISCO ARIAS: I think the language allows for the billing contract, and it would be up to the registry to say, "Even if my contract doesn't say this, I, the registry, have a policy that requires you, the registrant, to give me a billing contact." If the registry has the billing contact, then they have to explain it.

DENNIS CHANG: Our first approach was not to mention it all, but Marc wanted to add it for clarification. I'm not sure whether this is now becoming clear or confusing.

MARC ANDERSON: Okay. We will just wait for the clarification then. Thanks.

DENNIS CHANG: Chris has just included and move on. Okay. So, Marc, why don't I just go ahead and use your suggestion language, and then we can move on.

MARC ANDERSON: Sounds good. Thank you.

DENNIS CHANG: Okay. Thank you. Now, any other comments? Did you have another section that you wanted to talk about within this document?

MARC ANDERSON: Yes. Section 2.2. Can we scroll to that one?

DENNIS CHANG: Sure.

MARC ANDERSON: On 2.2, this is the section for the alternative bulk mechanism to backfill contact data from the registrars to registries. I know we've talked about this quite a bit, but I'd like to propose a modification to this.

Currently, as the language is written, the registry would have just three months from when a request is made, 1 May to 1 August, to implement this or to develop tests and make available this alternative mechanism.

What I'm being told by my Engineering Team is that this isn't enough time and that they would basically have to start implementing this before 1 May in order to have it ready by 1 August.

So what I'd like to propose is that the date – I guess we change the language so that there's a six-month period for the registry operator to provide this bulk mechanism but that we extend the time period whereby the registrars can submit their request.

When we previously discussed this, we discussed that not all registrars will start the backfill immediately, and they may determine that they need the bulk mechanism later on in the process. In other words, they might not know by 1 May 2017 if they would like to use the bulk transfer mechanism or not.

So my proposal is to push 1 May 2017 out, give registrars more time to determine if they want to put in that request, but change the language to say that the registry operator must, upon request, provide an alternative bulk transfer mechanism within six months of receiving the request.

So that's my proposal there: give the registry operator more time to implement it, but also give registrars more time to determine if they're going to need it or not.

DENNIS CHANG: Within six months of the request made by any registrar? I think that's your proposal.

MARC ANDERSON: Correct. Yes.

DENNIS CHANG: And not specify any dates. Go ahead, Theo. What do you think about that?

THEO GEURTS: I think that it's reasonable there, Dennis. So, yeah, we should definitely take that in mind. As far as I'm concerned, it's a good suggestion, Marc.

However, there's a little bit of a "but" here, but I don't think it's a bit "but." I sort of tracked back on the whole bulk transfer mechanism

myself just, like, half-an-hour ago. But Mr. Pelling made a compelling argument there, regarding having this bulk transfer mechanism there.

Actually, that's gotten me thinking like – and maybe this is something that Marc wants to weigh on this – and this is basically what Chris is saying there – if there are a lot of registrars going last-minute with their migration there, we'll have [the] backfill. There is a situation that somehow it is just too busy to pump all that data over.

Is the alternative mechanism a good way to circumvent that and make sure that we can still remain within the time limit there to make sure that we have an alternative as a backup? If we can use it as a backup, how do we go with the proposed timeline that Marc just made? Are we will good to go that?

That's a lot to digest, I think. If there's any questions, let me know, but that's it for now. Thanks.

DENNIS CHANG:

Okay. Now, looking at the timeline again – and I think the suggestion from the chat is that we still need an end date of the request, and I think that's fair. If we still use 1 May as the end date for the request, I think Marc's issue is that three months is not adequate, and he wants six months. Right? So that the bulk mechanism would be available starting 1 November instead of 1 August, basically.

Roger typed "February 1, 2018." That's a request, you mean? Last date for request? Is that what you mean, Roger?

Yes. Okay. Roger would like 1 February 2018 as the last end date for requests of the bulk mechanism. Six months from that would end us in 1 August 2018. So that would basically provide six months for the registrars and registries to use the bulk mechanism to complete the migration.

Alan, go ahead.

ALAN GREENBERG:

I may be either naïve or the opposite of that. I cannot imagine a scenario where, with all of the relatively large number of registrars which have a relatively small number of registrants and of domain, the bulk mechanism would not be needed.

I understand that the larger registrars have no interest in it, but I cannot imagine that we're going to end up doing the whole transfer without some sort of relatively simplistic bulk transfer for potentially large numbers of small registries.

So the only question is: how soon will they realize that and make the request? All we need is one of them to do that. But I really think we're arguing over something which is going to be a given. It's just a question of who's going to be the one to wake up first and realize they need it.

I'm done.

DENNIS CHANG:

Go ahead, Marc.

MARC ANDERSON: Fair point. I don't disagree. My assumption is that we're going to have to build it at some point, but I haven't been able to talk to anybody who wants it. So whatever mechanism we do end up building, I want to be able to talk to the person that's going to use it and make sure we're building something that meets their needs and is sufficient to the tasks.

So I don't disagree with what you're saying at all. My assumption really is that we're going to have to build it at some point. But as of now, nobody has come forward and said, "Yes, that's what we want," and "That's what we're going to transfer our data or backfill our data."

DENNIS CHANG: Back to you, Alan.

ALAN GREENBERG: I guess that's not particularly surprising. The people who are paying attention are not the ones who are likely to need it. I suspect this is an area where being proactive and going out and talking to some of the medium to smaller groups, the ones who are not going to want to implement a dynamic online solution – being proactive may make your life easier, rather than waiting for the first one to come to wake up and do it themselves.

Anyway, your call.

DENNIS CHANG: Theo?

THEO GEURTS: I agree with where Alan is coming from. That is sort of what I argued also, and I'm backtracking from it because in May 2018 you need to make modifications to the EPP anyways, yet again. That's it for now. Thanks.

ALAN GREENBERG: I may be crying wolf. I'm not the professional in this business. It just seems to me that, with all of the large number of registrars, some of whom are moderately small, it just looks like the natural path of least resistance.

But as I said, it's not my business. I've my opinion. That's all.

DENNIS CHANG: Thank you, Alan. Go ahead, Roger.

ROGER CARNEY: I'm going along with what Alan was just saying. I don't know that it's really Verisign's responsibility – and maybe it is. It's a good discussion maybe on this. I don't know if it's Versign's responsibility to get the registrars to do this. Registrars are contracted to do this. So I don't know if this is something that maybe we should reach out – I don't know if it has to be an apology or not, but maybe just an action: reach

out to the GDD and say, “Hey. Can you be actively pursuing these registrars and making sure they understand that they are coming?”

To Alan’s point and Marc’s point, those that are interested aren’t going to be the concern. It’s those that don’t have the time or don’t have the staff to watch these things. And maybe – I don’t know – the GDD is the right place or not, but maybe it’s something we can do through Compliance and/or other staff.

DENNIS CHANG: Go ahead, Theo.

THEO GEURTS: Thanks. I think what Chris just said in chat is maybe a good way to go about this: see if there’s anybody in the [RSD] who actually is going to use that. Personally, I can’t imagine it myself. At some point, you have to make these modifications. I cannot believe there are registrars out there that are still using web interface – the Versign name store – to register a domain name. It could happen, but I can’t see it happening.

DENNIS CHANG: Right. We talked about this several times. It would be nice to just know one way or the other right now. That clause was put in because we do recognize that we’re not reaching all the registrars everywhere. But anything you can do to get an advance notice or advance information – Chris, it seems like you’re volunteering – please do.

If any registrar comes forward, it's sort of a done deal, and we don't even have to put it into the strange timeline about the end dates and whatnot. We just put it in as part of the plan.

But for now, Marc is recommending that six months for him to prepare for the bulk registration, so if nobody has an issue with the duration of six months for preparation, then all we have to do is choose the end date for the request.

This is really looking at the registrar to see what would be a reasonable time. We certainly, from the GDD side – ICANN staff – will reach out to registrars as much as we can. Once the policy is effective, I think there will be a lot of effort in trying to coordinate this activity.

But before then, we're sort of holding here to see what comes out of the policy. If they are not really actively communicating this policy to the registrar group yet, I'm not sure they really should.

I want to hear from Marc.

MARC ANDERSON:

Thank you, Dennis. I appreciate what Chris put in the chat. If he wants to reach out to the Registrar Stakeholder Group – but I was under the impression that this had already been done. I thought Fabian actually had time with the Registrar Stakeholder Group at the ICANN Helsinki meeting and brought up this topic. And, Theo, I thought that you had also brought this up within the Registrar Stakeholder Group.

Correct me if I'm wrong here. My impression is that, in an earlier version of this, we had listed this as just a requirement. But I thought

we changed it to optional because we had not identified any registrars that were interested in using it. Every registrar that we've been able to speak to was interested in using EPP. If we have registrars that want to use it and there's interest in it, we'll do it. I don't think that's ever been the concern. They're just hasn't been anybody that's come forward and said they want to use anything other than EPP. Thank you.

DENNIS CHANG: Yes, that's correct. I agree with Marc. I've seen that happen. Now, Theo, go ahead. You have another remark?

THEO GEURTS: Okay. Just a quick one. Yes, Marc, I agree there. We had a limited discussion with several members there which had a strong opinion to go for EPP. We didn't really identify it, but I guess I'm on the same fence like Alan. Maybe there is an X case out there. You never know.

But I think that this suggestion is a good one, so let's go for that. And we can ask around at the Registry Stakeholders. Maybe there is somebody who needs it. We'll let you know.

DENNIS CHANG: Right. So this is the scenario, right? If we do identify one registrar who confirms that they need this, then we will write it in as part of the plan. But if we don't, we will still keep it as an optional, just in case we get a request and the time for that end date of the request is really the question of 1 May 2017. Is that a good date? That's, like, three months after the policy effective date. So by that time, if they don't request by 1

May, which would – are we saying that we were changing it to 1 August? I can't remember now.

Let me type this in. So request end, request deadline: 1 August. And [available] day? The date is 1 February. I'm trying to keep the 2018. So what I'm trying to do is trying to use those once every 1 August days, which is sort of in sync with our calendar for policy implementation.

Does that work for everyone if we set those dates? What it does is it gives six months for Marc to develop it. It gives three more months for registrars to notify the requirement, and from 1 August to February, it's six months of using the bulk migration. I think that's more than enough time.

Okay. If everybody agrees with this, let's just go with this for now. But, of course, if you come back with a registrar who needs it, then we can change the timeline and we can make it much earlier so that Marc can have more time to prepare it. And it's [available] earlier.

Okay then. Any other comments on this? Any other comments on the policy stuff, policy document? Marc, go ahead.

MARC ANDERSON:

Dennis, I don't know if this is the time to bring it up, but I want to bring up the topic of the escrow of data. So tell me if now's a good time or if you want me to hold that for later.

DENNIS CHANG: Does the escrow data impact the policy language as we have it right now?

MARC ANDERSON: I think that's part of my question. I'm not sure. I think that's maybe a topic worth bringing up in the IRT.

DENNIS CHANG: Well, why don't you go ahead and start. Let's see if it does or not.

MARC ANDERSON: Okay. Fair enough. On the topic of escrow, one of the deliberations that the PDP was asked to consider was if having multiple sources of escrow contact data would be better, and the PDP essentially determined that it was. That was one of the reasons why the PDP recommended proceeding with Thick as the policy for all gTLDs existing in the future. That's sort of my way of a very high-level summary.

Looking at the .com and .net Registry Agreements, both have language around escrow. They essentially say that, if the registry has registrant contact information, then it should be escrowed. So, essentially, if it has the data, you should escrow it, but it doesn't say anything about how it should be escrowed. So it doesn't include what fields, what format, how it should be submitted. All of that information is missing from the contracts.

So if the IRT is okay just leaving that up to the registries to work out how they would escrow that data, I'm fine with that. But I just wanted to

bring that up as a topic. It was something that was discussed as part of the PDP and isn't included in the policy at all. Maybe that's not an issue at all, but, again, I just thought it was worth raising. Thank you.

FRANCISCO ARIAS:

This is Francisco from staff. Marc, thank you for raising this issue. It does make sense to address it either here or through an amendment or whatever makes sense.

I wonder how we should go here. Do you want to propose something? Should we propose something? Or do we say that this is mostly an issue that affects the three registries involved here? But I do agree with you on what you said about the policy recommendations space, the assumption that there will be two sources of escrow data.

DENNIS CHANG:

Here's what I'd like to do. We got 15 minutes left. Why don't we and Marc come up with a language and either go into the policy body document or implementation note – somewhere. But let us try to figure it out and propose something online, and then we'll move on to the next topic. Is that okay with everyone?

MARC ANDERSON:

I'm fine with that. Noting that Francisco is the author of the escrow specification for new gTLDs, I was wondering if you'd like to maybe collaborate on proposing language. Maybe we can meet offline.

DENNIS CHANG: Yeah, that's exactly had in mind.

FRANCISCO ARIAS: Yeah.

DENNIS CHANGE: Go ahead, Steve. Steve, go ahead.

STEVE METALITZ: I'm sorry. I was on mute. It's just kind of surprising that this issue is coming up now at the 11th or 13th hour, depending on how you want to count it. Hasn't this been a known issue throughout this entire process? Marc, has this issue been discussed in the discussions around extension of the .com agreement? Because I think Verisign is aware that this – obviously – Thick WHOIS requirement is coming. So has that been taken into account?

MARC ANDERSON: I'm not sure what question you're asking, Steve.

STEVE METALITZ: I'm asking whether this is an issue that you expect to be resolved in the extension of the .com agreement, since it's been a known issue for about three or four years since Thick WHOIS policy was under discussion. It's just surprising that it's coming up now.

MARC ANDERSON:

I have to caveat that I'm not involved in anything with the .com extension, but I don't believe it is at all. I think that, based on the existing contract language, which, as I mentioned, says – the existing contract language does say that, if contacts exist, then they should be escrowed. I think it speaks to registrants. If the registry has registrant data, then that registrant data should be escrowed. But it doesn't specify how.

So I think that's the question that I'm bringing up: should we get into how it should be escrowed? So I guess that's the question I'm bringing up now.

Does that answer your question, Steve?

STEVE METALITZ:

Yeah. Okay. We'll wait and see what you and Francisco can put on the list to resolve this. Thanks.

DENNIS CHANG:

Thank you, Steve. I think that was the last topic for the policy itself, so, yes, we'll go ahead and address it with Marc offline and come back to the IRT.

Let's get back to our agenda. We have – let's see what we have – the memo to the GNSO Council on privacy. This memo was first discussed in Helsinki. I think Joe brought it up, and IRT agreed at the time. Yes, we should notify it if it's required and is really an IRT action. Marc drafted the memo and circulated it within the IRT. There were some e-mail

discussions on the IRT, but since then, it's been quiet for a while. We have added to the IRT agenda at your request.

So go ahead. Who would like to start here? Marc, go ahead.

MARC ANDERSON:

Thank you, Dennis. I guess that falls on me as I submitted the draft. Your summary is good. Joe Waldron, also at Verisign, had brought this up at the IRT meeting in Helsinki, and he also agreed to provide a first draft. So I did post that to the list, and I guess that's the draft that I'm proposing the IRT consider as part of its obligation to notify the GNSO Council of any unforeseen or changed circumstances related to the work we're doing.

So I think that goes on the table. I'll leave it up to the IRT to comment. Thank you.

DENNIS CHANG:

Steve, go ahead.

STEVE METALITZ:

Thank you. I agree with the summary. Marc and I did have some back and forth on this on the list earlier this month.

I think there were several open questions that I'd raised that I don't think have been answered yet. Maybe most relevant to get to the third of three that I had proposed, and that was: what exactly are we asking the GNSO Council to do here, if anything? Because I would imagine, if I

were on the GNSO Council and I got the letter that was drafted, I'm not quite sure I was being asked to do. So maybe that would be one point to clarify.

Then I did have a couple of other questions about it that I think have not yet been answered, but maybe that first one would be the place to start as to what the IRT thinks we should be asking the GNSO Council to do.

DENNIS CHANG:

Any IRT members want to address that? Marc, you have your hand up. Go ahead.

MARC ANDERSON:

Yeah, I guess I'll jump in on that one. I think the IRT obligation is to inform. I think that at least that's my read of it. I wasn't at the Helsinki meeting, but I did dial in remotely. So considering my remote connection, my understanding of what was discussed is that the IRT agreed to the notification obligation, but nothing beyond that.

Steve, I think, from my opinion, my perspective I guess is that it's just an obligation to inform. I don't think that it extends beyond that, I don't think the IRT agreed to more beyond that.

I do think that you raise a valid question. What do we expect, or should we ask for more direction, or should we ask the GNSO Council for something specific? I think I did respond to you with a proposal on that, but I think, really, from my perspective, our obligation is just to notify the GNSO Council. If they feel additional action is necessary based on

that, I think that's a decision for the GNSO Council and not for us as an IRT. Thank you.

STEVE METALITZ: Okay. Well, I'll wait in the queue.

DENNIS CHANG: Theo, go ahead. Your turn.

THEO GEURTS: Thank you, Dennis. Yeah, I agree with Marc. I also made some comments on the list. Basically, I'm not sure what is the best approach there. But I do think – and Marc is right – that we as an IRT should notify the GNSO that there has been a change that a legal review did not take in account. So are we still doing the right thing here? That is not up to us, but it is up to us to signal the GNSO, like, "Hey, guys. Look at this and give us some guidance here." I would really appreciate that because I have absolutely no idea where to go with this. Thanks.

DENNIS CHANG: Back to you, Steve.

STEVE METALITZ: Thanks. Well, that's not what this letter says. This letter says, "The IRT believes that the invalidation of the US-EU. Safe Harbor Program, the development of the EU-US Privacy Shield, the adoption of the new GDPR by the European Commission, and decisions by regulators raise

new privacy issue not anticipated by the EWG that acquire additional policy consideration by the GNSO Council, particularly with respect to the potential use of registrant consent,” and it goes on.

So it sounds from this like we are asking the Council to take this up, to reopen the policy development process that they concluded about three or four years ago, and relook at the policy.

Now, if that’s what we’re asking, first, I think we should be clearer that that’s what we’re asking, but I cannot agree to the letter that has that sentence in it because, first, as I explained in my correspondence with Marc, I don’t think any of those points are valid as far as requiring a reexamination of the policy. We can go into that, but since Marc’s company never relied upon the US-EU Safe Harbor Program to receive Thick WHOIS data from the Thick registries it operates, I don’t understand why the invalidation of that program has any impact on this. So that’s one question that still hasn’t been answered.

The other is about that I think this letter melds together developments on privacy law and developments on data localization laws, such as the Russian law, which are not really presenting the same issue and which were addressed in the legal review. I’m still waiting to hear what Marc thinks was lacking in the legal review that ICANN asked for and received.

If we think something is missing in that legal review, maybe we want to expand on the legal review, but I don’t see any basis here for reopening this policy, and that seems to be what this draft asks for. If that’s not what’s intended, then we may need to be looking at the language of this letter.

But when I read that certain things that are listed require additional policy information by the GNSO Council, I'm not sure how else you would read that, other than to say, "Reopen what you did. Start another policy development process." In the GNSO Council, that means: start [inaudible].

So we're talking about a multi-year process here. Is that what we're asking the GNSO Council to undertake, or are we just telling them what some members of the IRT feel about this? That's what I need to be clear on.

DENNIS CHANG:

We have three minutes to the top of the hour. What I'd like to do is give the floor to Alan. We need to wrap this topic up, and I'd like to go over our next steps before we conclude.

Go ahead, Alan.

ALAN GREENBERG:

Thank you very much. If we did have to reopen a policy issue, I don't believe it's a matter of going back to a new issue report because there are new processes to reopen a process in just such a case like this.

However, my recollection is that the legal review part of the recommendation and that it be done essentially as the first step of implementation. If we feel at this point that for whatever reason – and I'm out of my depth here and I admit it – that the legal review is no longer valid or is no longer complete, and it was done not as part of the policy process – it was required by the policy process but not done as

part of the policy process – it is our obligation to go back to legal staff within ICANN and say, “This may need to be reviewed.” If that legal review says we now have a problem, that the policy cannot be implemented properly, then we go back to the GNSO.

But since the legal review was part of the implementation process, we need to loop back and do that again if indeed the changes indicate that we may have a problem. Then we need to verify with a revised legal review whether there is a problem or not. If there is, then we may indeed have to go back to the GNSO. But I think they’re out of the loop at this point, as I understand the process. Thank you.

DENNIS CHANG:

Thank you, Alan. This topic seems it requires a lot more discussion, so what I would encourage the IRT to do is continue the discussion online. Perhaps we can get to some sort of a conclusion.

For now, we need to wrap this meeting up. In the last one minute left, I’d like to just go ahead and go over the next steps.

With the policy document, we’re trying to prep it for public comment. As soon as it’s ready, we’re going to go ahead and post it. I’ll remind you that, at the next IRT meeting, we’re continuing for October, which is next week at the same time. I asked [inaudible] to schedule I think three or four meetings October, just before we get to the ICANN 57 session.

Just one note. The ICANN Adobe Connect room will be changing the URL. We’re bringing the Adobe Connect room into the internal ICANN servers to improve the quality of the ICANN room proponents. So you

will notice a different URL. I just wanted to make that point in case you have saved the URL somewhere.

With that, I'd like to conclude the meeting. Any final questions?

ALAN GREENBERG: Just one. It's Alan. Just one comment on that. If anyone else logs onto Adobe Connect instead of signing on as a guest, in the new one you cannot do that. Only ICANN staff are allowed to. Just noting that.

DENNIS CHANG: Well, okay. Thank you, Alan.

ALAN GREENBERG: It requires an ICANN VPN. I don't have one of those. If you'd like to give me one, then that's fine.

DENNIS CHANG: That's news to me. That won't work.

FRANCISCO ARIAS: Yeah. [inaudible] We're checking that.

DENNIS CHANG: Yeah. [inaudible].

ALAN GREENEBRG: Well, I tried to get onto a meeting just prior to this that had flipped over.

FRANCISCO ARIAS: Okay. We'll look at that.

DENNIS CHANG: Yeah. So we'll let you know.

ALAN GREENBERG: There are not many people who bother signing on. The password requirements on Adobe Connect are stronger than what my bank requires.

FRANCISCO ARIAS: We'll take that as a compliment.

DENNIS CHANG: Thank you, Alan, for the warning. Yeah, we'll see if we can get to it next week. Thank you.

UNIDENTIFIED MALE: Bye-bye.

UNIDENTIFIED MALE: Thanks.

[END OF TRANSCRIPTION]