
DENNIS CHANG:

Thank you, Michelle. Welcome to the Thick WHOIS Policy Implementation Review Team meeting on the 24th of January, 2017. This is a very important meeting, as we are on our way to publish two policies, both on Thick WHOIS.

Let me advance the slide. Today we'll talk about the project status again, very quickly, and, again, project schedule, and the comments that we received since last week. Then we'll look our revised policy language for CL&D and transition, and then we'll talk about the next steps.

For CL&D and policy transition, we have incorporated the language that we've been getting based on your feedback even since the last time we looked at it, and we've crafted some words that I think are satisfactory. But we'll review it together.

Regarding the IRT letter, those of you who called into the GNSO Council discussion on the 19th of January will know that they did not take any action, other than to share the letter with the RDS PDP Working Group for possible consideration of their scope. They said that maybe they will discuss it on the list going on, but that was it. I thought I'd give you that status.

For the CL&D implementation path timeline, as you know, we set the schedule and we have been sticking to it. We are about to publish this policy on or before the 1 February, 2017. We'd like to get it out this month, in January, if at all possible. So the ICANN organization is gearing up to do that – publish and announce it – and we have six months to

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work together to ensure that we have our policy implemented by the “policy effective” date.

For the transition implementation, it’s the same thing. We have policy language that we’ve been working on, and we have been able to stick to the schedule for at least six months. Thank you all for your work in making that happen.

Today we’ll look at the language, and then, most importantly of course, after we publish the policy for implementation, we will be working together throughout this process, all the way to 2019 – the 1 February – to ensure our successful implementation.

So, CL&D policy is rather simple, and I think we had a consensus and everyone agreed last time to remove the “not to be deployed before” date.”

FRANCISCO ARIAS: Dennis, are you intending to move the slides?

DENNIS CHANG: Yeah. I have been.

FRANCISCO ARIAS: No. nothing was moving.

DENNIS CHANG: Oh, really? Oh. That’s odd. Oh, it’s not following me.

FRANCISCO ARIAS: Oh, really?

DENNIS CHANG: Yes.

FRANCISCO ARIAS: Maybe it's me. Sorry.

DENNIS CHANG: Okay. I'm going to bring up the policy document for CL&D so we can take a quick look together. Let's see. We've got a lot of stuff here.

Can everybody see the document? Yeah? Okay. So what we did here were two things. We deleted the new date that said "not to be deployed" – here we go. It's not following me. I have control, right? Oh, you know what? I think it's because we have released the control. I'm going to have to say ["think"] navigation. Let me see if it works now.

Okay. That was why. You guys had control over the slides, and that's why. So you can see here in the implementation note that we deleted the comment about the "not to be deployed" because it's no longer relevant. Thank you, Marc, for pointing that out. Of course, on top, we deleted the date right there. On the implementation effective date, you don't see the –

FRANCISCO ARIAS: Just scroll down.

DENNIS CHANG: Yeah. Okay. So I believe we're done with this policy language and we're ready to publish. Anybody have any questions or comments on CL&D policy?

Hello? Anyone? Go ahead, Joyce.

JOYCE LIN: Can you go back to the very beginning to the [inaudible] transition policy, the definition? Either I'm not getting that right version or something in the Thick registration.

FRANCISCO ARIAS: This is the CL&D policy.

DENNIS CHANG: This is CL&D. Oh, we have two policies, Joyce. This is the CL&D. We're going to go to the –

JOYCE LIN: Yeah. I mean the transition policy.

DENNIS CHANG: Okay. That's the next one we're going to talk about.

JOYCE LIN: Oh, okay. Sorry.

DENNIS CHANG: No, no. That's fine. We're going to get there right now. So my question to the IRT is, do we have your support to publish this policy and move on? I'd like to get some –

FRANCISCO ARIAS: Roger, Theo, Marc.

DENNIS CHANG: Marc. Yeah, thank you for the checkmark. Theo, Roger. Steve is not on the chat, but Steve is.... Joyce. Okay. I take that as a yes. We're going to proceed, and we are moving on to the next policy, which is the transition policy. Let me just... Okay.

On the transition policy, we removed the [RDAP] reference. We changed the "starting 1 August 2017" to "5 [August] 2017." We changed the contract posted info to contract info type. We added "all subsequent amendments" there too per Marc's last comment, and CL&D requirement consistency between Section 2.8 and 2.9. The reduced validation data period that Marc pointed out we tried to address. Let me bring up that document.

Theo has a hand raised. Go ahead. You want to say something first?

THEO GEURTS: No. I fully agree. I wanted to clear [inaudible]. Sorry.

DENNIS CHANG: Okay. No problem. Okay. This one is it, I think. This is the Thick WHOIS. I think maybe Joyce has a question, but we're going to go down. There's no change to the scope, definition, or effective date. We're going to go slowly.

JOYCE LIN: [inaudible]

DENNIS CHANG: This is for registry operators.

JOYCE LIN: No, no. At the very beginning.

DENNIS CHANG: Oh, very beginning.

JOYCE LIN: Yeah, the definition. Okay. Right there. The Thick registration in the last sentence [inaudible] information for the domain is maintained by the sponsoring registrar? Is it sponsoring – registry or registrar? Because on the [scene] that we have two registrars have to maintain the contact data. But at the Thick, we also had to maintain that. Do you know where I am? Hello?

DENNIS CHANG: Yeah. Hi.

FRANCISCO ARIAS: Hi, Joyce. This is Francisco. I'm not sure I follow the question. Would you mind restating it?

JOYCE LIN: Yeah. All of a sudden this audio just disappeared. On the Thick registration, the last sentence says the contact information for the domain name is maintained by the sponsoring registrant. I thought it was the sponsoring registry that had to maintain the contact information for Thick registration.

FRANCISCO ARIAS: If you look at that sentence, it's also in the Thin registration. My memory may not be the best, so I'll trust someone in the IRT will correct me if I'm saying something wrong. I think this sentence that you see in both the Thin and the Thick registration is pointing to the fact that registrars are the ones that maintain the contact data, no matter what the type of registration, the difference being that, in the Thin registration, the contact data is only maintained in the registrar, while in the Thick registration – and this can be seen in the definition before this last sentence – it says the registrar provides a copy of the data to the registry.

JOYCE LIN: Okay. But then we also have to upload it to the registry.

FRANCISCO ARIAS: Correct. That's the first sentence, and that sentence is saying you are the maintainer of the data.

JOYCE LIN: But we have to deliver a copy to the registry of all the contact information, and we also have to maintain a copy in our own database. That's what it says.

FRANCISCO ARIAS: I don't think it's saying you have to maintain a copy. Does it? Because you maintain it, I'm not sure –

JOYCE LIN: But what does "maintain" mean? If we provided the contact information to the registry, sometimes you don't necessarily have to keep that in your own database. You can just send it over. Isn't it?

FRANCISCO ARIAS: Yeah. I'm not sure what was meant by that text.

DENNIS CHANG: Roger or Theo, do you have a comment on this? I think the registrar –

THEO GEURTS: We maintain the information. Joyce is correct in the sense that we just copy or send the information to the registry. But basically the contact information is maintained by the sponsoring registrar. If there are any changes by the sponsoring registrar, we will just send the changes to the registry. I think that is the gist of it. Thanks.

JOYCE LIN: That's a more operational point of view. So we can just access our database and send it over. But in the real world, if you have the program that can just access the registry's contact information and update it, they can put [inaudible] too. But it will be different if we are required to maintain that in our database versus just sending a copy over, retrieve what they have when there's some modification, retrieve what they have from the registry. They are two different things. I just want to make sure that legally or by contract of what we are supposed to do. That's my point.

DENNIS CHANG: I don't think there is any intention to change what the registrar has to do here in terms of maintaining the data. That hasn't changed. If you look at Steve Metalitz, he made a comment.

Roger, you raised your hand. Go ahead, Roger.

ROGER CARNEY: Registrars are ultimately responsible for the contact data. Joyce, you actually have to keep it because you have to provide data escrow as a registrar. So you have to have that contact data.

As Steve mentions, yes, we're the ones responsible for maintaining it, so any updates or modifications have to come through the registrar.

JOYCE LIN: Okay. That's fine. I just wanted to clarify what the registrar's responsibility [inaudible]. Okay. Thanks.

DENNIS CHANG: Thanks, Roger. Let's move on and look at the changes. In 2.4, as we noted before, we changed the word from "starting" to "by."

In 2.8, we changed the word from "shall" to "may" to imply that you're allowed to but are not required to.

In 2.9, we tried to clarify between new registration and existing registration data, and we maintained the existing domain names the [words]. But we added the new registration for [clarity]. So by 1 May 2018 is for new registration and by 1 February 2019 is for existing domain names. This is following the timeline. Our implementation plan began charts that we've been looking at. This is what was meant to reflect.

Okay. The next change is 2.10. Let's see. We removed the [RDAP] reference. That's what was done. Let me see. 2.1. There was a – yeah.

UNIDENTIFIED MALE: Joyce and Marc and have hands up.

DENNIS CHANG: Go ahead, Joyce – oh, Marc. Go ahead, Marc.

MARC ANDERSON: Thanks, Dennis. I just wanted to say that they were minor tweaks to 2.8 and 2.9, but I think that that helped a lot. I think 2.8, 2.9., and 2.10 read a lot better now with those tweaks to the language. So thank you.

DENNIS CHANG: Okay. Thank you. Joyce, did you want to speak? No?

UNIDENTIFIED MALE: It's an old hand.

DENNIS CHANG: Old hand. Okay. Let's see. Any other comments? Go ahead, Theo?

THEO GEURTS: Hi, Dennis. While you were going through the entire text there, I noticed that none of my suggestions from last week had been taken into account. I'm a little bit disappointed about this. I know that last week, actually somewhat due to the spirited discussion, my question didn't get answered, but I think the question – if a registrar enters into a problem when it comes to data privacy laws, how does the registrar go about it? And for this policy, as we have it now, at the tail of it, I do not think that the solution that is presented there is a solution. Unless I'm wrong, of course, and somebody on the call here can explain to me what steps I have to take when there is an issue because, from my recollection, we

have a reference to a policy that is not working. I think that is pretty hard to sign off on. Thanks.

DENNIS CHANG: Understood. Anybody have a comment on this? Go ahead, Joyce, and then Krista – oh, I think, Joyce, that’s an old hand.

JOYCE LIN: Yeah. Sorry.

DENNIS CHANG: That’s okay. Krista?

KRISTA PAPAC: Thanks, Dennis. Theo, it’s Krista from the ICANN organization. I just wanted to respond to your comments. Dennis, correct me if I’m wrong, but I think what Dennis is trying to do right now is go through the changes we did discuss as a group last week and just make sure that they work. I know that there were some comments from you, and I think maybe it was Chis Pelling – I can’t remember, but another registrar on the list – that I think, at least from my perspective, are something we should discuss that we weren’t. I personally wasn’t quite sure of what you wanted us to do with those comments, and it seemed like a good topic for this call.

So it wasn’t that we disregarding your comments. I just think it’s something that should be subject to conversation before we go making

changes. So I just wanted to address the changes we did discuss last week and then talk about the things that came up on the list this week, if that's alright with everybody, as an approach.

THEO GEURTS:

Okay. That was pretty clear, Krista. I just had a feeling that we've been dancing around this for month and nobody could give me straight answer of if there is a problem. I just want to make sure that we are not avoiding anything here.

Of course, again, if there's no problem, just tell me how we get of this situation. No problem. Thank you.

KRISTA PAPAC:

Sure thing, yeah. Happy to discuss that. Dennis, are there a couple more changes? I know Marc wanted to look at 2.4, but maybe we can wrap those up real quick and then we can go into the substantive discussion about what Theo is concerned about.

DENNIS CHANG:

In 2.4, we made a slight change. We added "until 1 February 2019" to address Marc's latest comment about clarity. I think that will do the job because the limited validation was only until 1 February. On 1 February 2019, the whole policy is in effect, and all the data elements are required.

Any other comments? Marc, go ahead?

MARC ANDERSON: Thank you, Dennis. Yeah, I think this does it for me. When I read it before, it was just thinking that it seemed, when I first read it, like it was requiring it indefinitely. But it's really only until 1 February 2019. So I think this clarification addresses that concern. Thank you for adding that language.

DENNIS CHANG: Thank you for that confirmation, Marc. So the specific language that was suggested we have all incorporated, and I'm done with that discussion. If you are all satisfied with the policy as modified today, then we can go ahead and talk about other topics, including the WHOIS obligation and the different solution for alternate triggers.

Marc, go ahead. You have a hand up?

MARC ANDERSON: Yes. Sorry, Dennis. One other thing. I'm just noticing that the text throughout this changes color. It's black in some places and blue in another. It's just an editing note. You might want to, before putting together the final version of this, run through and make sure that the formatting and text color and whatnot is consistent throughout.

DENNIS CHANG: Thank you, Marc. I'll certainly do that. We'll double check and have our team here review it thoroughly before we publish.

Krista, you have a hand up? No? Okay.

As I was saying, this is the way I view this project. When I started and got on this project, the scope of the project is very important to a project manager. So I'm keenly aware of what we are authorized to do and what we are not, and I'm constantly thinking about making sure that our focus as the implementation team is right on the authorized implementation for the policy.

So that's what I have been trying to do, and that's why, if you recall this emerging privacy issue IRT letter to the GSNO Council, when that topic came up initially, I suggested – and the IRT agreed – that that is something that we should treat in parallel and not interfere with our development for the implementation process.

From there, for six months we've been working very well together. We have been able to keep our schedule. This month is when we're committed to publish this policy.

Unless the IRT really believes that this IRT scope includes the solutioning of the local law conflict with the WHOIS issue, I think the implementation team here will carry on and proceed with our project.

Does anybody have other comments on this? I know that Steve had written – Joyce, go ahead.

JOYCE LIN:

Just a comment about that privacy [inaudible]. I think that every country will change their laws constantly, from time to time, from country to country, so that privacy issue is really a moving target. It's beyond our

scope here, I believe. There's nothing we can do about it in terms of that issue. It's just a moving target. That's my comment.

DENNIS CHANG: Thank you, Joyce. Yeah, I agree with you. Theo, you have a comment?

THEO GEURTS: Yes. Thanks, Dennis. I agree: it is a moving target. I brought it up many, many times. I'm not suggesting that we change the scope of our mission. Like I mentioned in my e-mail, I'm not in favor of setting up a WHOIS waiver procedure.

Basically, there is a solution. We have one from 2006. My problem is – and it's pretty simple – that we are referring to a document that is a non-solution for registrars who will get into trouble. If that solution would be workable, I wouldn't be here on a call right now discussing this. If it was a working, fine solution, great. But basically – I don't want to make a really bad joke about it – but the solution we are referring to when a registrar hits those problems might have well said, "Well, go to McDonald's. Order a burger and hope that everything becomes all right." That could have been in there because it's a non-solution.

I'm not going to sign up on it. I'm going to be here on the record, for the record: I'm not going to give it a go here if there are registrars that can get under the bus by this.

I think I've given it a reasonable solution, where the registry operator has to do certain things and the registrar has to do certain things. I think

we are not changing scope here, but I think we cannot sign up – at least I cannot – when it comes to this.

What actually happens when a registrar gets under the bus? Did anybody think this through? Do we think that's okay that some registrar loses their accreditation or gets a huge fine as a result of this? That cannot be the vision here of this policy. I understand that we want to migrate the data, especially myself – I have to [research] for many months. I'm actually in favor of moving the data because it will solve me a lot of problems, but I cannot speak for any registrar on the globe here.

Like I said, if the solution in the policy we've written would be working, I would sign off on it right away. But it isn't working. From what I've heard [on] the GNSO, it was a yellow flag. It was not a red flag. The whole WHOIS IAG thing is not moving forward.

Again, if it's a non-issue, just tell me. If there are no registrars who can get under the bus by this, fine. I'll sign off. But if registrars can get between a rock and a hard place, I've got an issue with it. Thanks.

DENNIS CHANG: Krista?

KRISTA PAPAC: Thanks, Dennis. Theo, there are a couple things going on here. The first one – I know you know this, but I feel like it's my duty to say it anyways – is that ICANN the organization received policy recommendations. The GNSO did policy work. They approved their recommendations. The Board approved their recommendation that said to go make all

registries Thick and to have consistent labeling and display and to do a legal review.

So as far as the responsibilities of the ICANN organization and this IRT, that's what we're responsible for doing right now. That's what we've been asked to do. I said this last week and I need to say it again: as staff, we're not empowered to do anything beyond that. Policy is sacred to all of us, and the processes are well-defined. What our role is as the organization that implements is very clear. So that's one piece of it.

I hear you and I understand what you're saying about the concerns about registrars having an issue with being out of compliance, either with the registry agreement or with a national law or something else. I do think that's a problem that could come up in all kinds of context, just not WHOIS. I don't think it's something for us, the staff, to answer. I think every registry and registrar needs to go with their own legal counsel on what they can and can't do.

There are a number of mechanisms, not just the procedure that we're referring to. There are other mechanisms, like consent. I know in Europe there's a new framework that I think has recently been improved, but there are different things going on. There's – oh, I forget the name of it; I'm not a lawyer, so forgive me – certain kinds of contracts you can set up that can assist with this.

So there are different mechanisms that are available. I'm not saying that will solve your problem or not solve your problem. I'm just sharing with you what we've said through the legal review memo and other communications on this topic.

So that's where we are. I don't think anyone can tell you whether you're going to be in trouble or not in trouble at some point in the future regarding WHOIS or other things. I think that's a tough question to answer.

I just don't understand what we do with your lack of support because, again, we've got a policy we need to implement. We would like to have the support of the IRT. While I do understand your concern, I'm not sure that there's anything that can be done about that in the context of this particular set of recommendations and implementation. Thanks you.

DENNIS CHANG:

Marc, go ahead.

MARC ANDERSON:

Thanks, Dennis. This is such a tricky topic. I guess I'm going to try to go slow here now to not misspeak anywhere. I want to say I agree with Krista and I agree with Theo and I agree with what Steve said in chat. I want to recognize that those are in conflict with each other. I think that's the heart of the problem: you can't agree with all of those things and be consistent. There's a problem somewhere if I'm agreeing with all of you. You're saying different things.

This is a really sticky topic. Steve mentioned that it's not the scope of this group to change longstanding consensus policies, and I agree that that's completely out of scope of this group.

Krista, I think you made a real good point. How is this in the scope of the IRT? Dennis, I think you made the same point at the beginning.

But I also agree with Theo. We've got a policy here that mentions the procedure for handling WHOIS conflicts for privacy law as being to registry operators and registrars as noted in the legal memo that was done for this IRT. But that procedure isn't really available to us at implementation time. The legal memo notes that the biggest complaint about this procedure is that it's only available or only effective after you're subject to legal action. Forgive my poor summary there of that but I think you get the gist of the point.

So I think this puts us in a little bit of a bind. I wish there was a good solution to address all of this. I think I go back to Krista's initial point, when Theo brought this up: what solution could we present to solve this?

Theo, I think you have something in mind. Is there something you could elaborate on a little bit as far as what you're thinking there?

THEO GEURTS:

Yeah, sure. And it is very complex. I thought that, just by making a few changes to the existing solution that we are referring to – let me call that Plan A. "If there's a problem with privacy laws, follow Plan A. Okay. Plan A is not working. Okay. Then we simply move to Plan B." Then Plan B is like – okay, [inaudible] Verisign has to maintain two systems, a Thick and a Thin. Until the matter is resolved, basically what I'm aiming for here is that the registrar does not go under the bus here by ICANN compliance because they cannot meet certain deadlines. I know it's a little bit of a burden on the registry and that it also becomes a burden

on the registrar at some point if we all move to RDAP – all those registries.

I'm just looking for a basic Plan B in our language that goes like, "If A is not working, let's move to Plan B." Plan B doesn't have to be something major. It just says, "Okay. If we can't transfer the data, then we just go along with what we've been doing for years and we supply Thin data to the registry, just until the matter is resolved." Where that matter gets resolved? I can't predict that. Maybe the WHOIS IAG gets finished this year and then it's a completely non-discussion. I'm just simply looking for Plan B. That's the gist of it. Thanks.

DENNIS CHANG: Joyce, go ahead.

JOYCE LIN: I think Theo, nobody [responds] to or very few responds to your e-mail because we all know that we don't have a solution. The issue here is com/net transition, and we are talking about privacy. How about all the other new gTLDs? They are all Thick registries, right? How do they handle that?

So it's a very broad issue for privacy thing. I would think there's very little we can do, and I think none of us have any answer. That's why we don't provide any.

Maybe if one of [inaudible] in the future if ICANN comes up with a solution and revise the [RAA] and put it across there to protect all the registrars when the issue comes up or when any lawsuit comes up, then

it will be uniformly applied to all the registries, not just the com/net but all the other new registries. That will be the ultimate solution. I don't think there's something we can do right here to resolve it.

Regardless of what kind of plan you put out there, if somebody is going to sue you, they're still going to sue you. Plan B is probably not going to protect you. That's just my opinion.

DENNIS CHANG: Thank you, Joyce. Next, Marc?

MARC ANDERSON: Thanks, Dennis. Theo got me thinking. Like he said, this is not a new topic to the IRT. I was just flipping through some old meetings slides. I'm looking at the Thick WHOIS policy slide from 21 October 2015. In that meeting, we talked about RDAP as a potential solution to addressing this particular problem.

I think the conversation was along the lines that Theo is suggesting now. At a high level, the RDAP protocol has the ability to do a referral mechanism, whereby somebody requesting the data would request it of, say, the registry. But behind the scenes, the registry would be referring to the registrar to return some of the data. That was, I think, a pretty poor description of what we discussed on that slide. I guess it's pretty similar to what Theo is discussing here as options.

I know Kris is mentioning the legal memo as well. The legal memo also referred to the RDAP referral mechanism as a possible solution for addressing the concern that Theo is bringing up.

So I think, like Theo said, this is something we've discussed and talked about possibilities for how to address this in previous meetings in this IRT. I think there are some options to consider for how to address situations like this. Thank you.

DENNIS CHANG: Krista?

KRISTA PAPAC: Thanks, Dennis. Thanks for that, Marc. That certainly has been a topic of conversation, both with the IRT and internally here at ICANN for a very long time, as a possible solution.

Our belief has been so far that to do that would still require further policy work, and the reason behind that is that, when you look at the final working group report and when they talk about Thick WHOIS, they talk about the data being duplicated at the registry. I don't have the exact words – I can go find them if you like – but it's clear from their report that the working group intended for the data to be transferred. So it seems like we would need additional guidance from the GNSO or some – I don't know how that would exactly work. By doing what you're talking about, which does make a lot of sense and could possibly be a solution, we worry that we wouldn't be in line with what the actual policy recommendations and final report said.

The legal review does mention it. It also mentions the same thing I'm saying right now, which is that there are questions on whether that implementation that you just described would be consistent with the

actual policy recommendations and the benefits identified by Thick WHOIS that were listed in the final working group report.

I wish it was that easy. I think that would be great if we could follow that path. I think we would be challenged because of what the working group report says. Thank you.

DENNIS CHANG:

Go ahead, Steve.

STEVE METALITZ:

Thanks. I think Krista has summarized in a couple of her interventions the situation quite well. The points Theo is raising are legitimate points, but this is not the group to resolve them. If the WHOIS conflicts procedure is inadequate, that's within the scope of the GNSO to recommend changes to that. That was, by the way, a procedure that was developed to implement a consensus policy.

If the RDAP solution is a better Plan B, again, as Kris just pointed out, it may need more policy work. I will say that my recollection is that there were a number of reasons why this group, which considered that option, decided not to pursue it. I see that in this policy we've just gone through and purged it of a lot of the references to RDAP. There's a huge resistance to RDAP in some quarters. So to say, "Well, RDAP can solve this problem," I think gets to be a complicated question.

I just have to say also that no one's trying to through any registrars under the bus. That bus's arrival has been predicted for more than a decade. We were having these conversations in 2003 and 2004 at the

GNSO about how WHOIS was totally inconsistent with data protection law in Europe – the same data protection directive that is still enforced today, I would point out – and that any day now someone was going to get thrown under the bus for violating this.

Well, it hasn't happened. The bus has never arrived. The bus has never been seen on the street. So at some point you do have to put it in that perspective. I understand that the law is changing, and that's exactly what's in the letter that we sent to the GNSO Council to flag some of the changes that are happening and say, "These are things that are going to have to be taken into account in the implementation process that registries and registrars undertake."

But, I think, to go beyond that? Really, there isn't any basis for doing it, either if there's a change in their conflicts procedure or going to the RDAP solution. The first is certainly outside our scope. The second I think may be outside our scope as well. In any case, we came to that fork in the road two years ago and we decided not to go that way. So I'm not sure what can be done at this point. Thanks.

DENNIS CHANG:

Go ahead, Theo.

THEO GEURTS:

Just a quick remark there, Steve. You're absolutely right. Maybe there is still a lot of resistance when it comes to RDAP. At the beginning, if I go back to the discussions last year in Marrakech, there were a lot of registrars who didn't want to do RDAP. I think something that Michele

noted on the GNSO meeting last week was the realization that this is a boatload of data. People are getting more aware of what's going on. I was actually surprised that [Steve] Pelling supported what I said last week because I know he was a ferocious anti-RDAP [adopter], so to speak.

So there's some kind of realization kicking in here. Maybe I'm getting cold feet, too. Maybe that's why I suggested that maybe we should have a Plan B. Of course, I am totally not comfortable when something would happen to a registrar and people are going like, "Okay, who invented this? Which group was responsible for this?" Then they're going to end up like, "Oh, it was a few guys at an IRT and they didn't come up with a simple Plan B." Maybe I'm getting cold feet here a little bit.

Of course, being an IRTPC and having a similar experience going from zero to zero within a few months' time is not a great experience. So apologies if I'm getting wet feet here, but I'm also a little bit cautious about some public fallout if things go wrong. So that's where I'm coming from also. I just wanted to clarify that a little. Thanks.

DENNIS CHANG:

Thank you, Theo. Yeah, I recognize that. I think everybody says we all recognize and agree with your concerns. But I do remind the IRT that the IRT's work is not done when we publish the policy. We continue to work together in implementing. If you look at our plan here, we have two years together to work this out for a successful implementation.

I think Marc has a comment.

MARC ANDERSON:

Thanks, Dennis. Just following up on what Steve, Krista, and Theo said – again, I find myself agreeing with all of you – I’m trying to think of what could be a possible solution. I think Krista’s right, Theo. There are some options here, but they just aren’t supported by the approved policy that we’re working on on implementing.

But to Theo’s point, okay, we’ve got the potential for some issues here. What can we do about it? Could we provide another letter to the GNSO Council? Could we say, “This is the implementation of the policy approved, but in the process we’ve identified some concerns”? Or, for example, I’ll say, “The WHOIS conflicts procedure some or many members of the IRT feel is inadequate.”

The legal memo noted that that policy was being reviewed and worked on, but that review effort has stalled. So maybe we could try to encourage the GNSO Council to take a harder look at that WHOIS conflicts procedure and see if there’s something that can be done to address things there.

I’m thinking out loud a little bit here, but I’m trying to come up with some workable ideas. Thank you.

DENNIS CHANG:

Thank you, Marc. Krista, and then Steve.

KRISTA PAPAC:

Thanks for that, Marc. I'm actually glad you mentioned the procedure as well. I haven't caught up yet with where the GNSO is at with the most recent recommendations. I know they were stalled. I think they were going to move forward with them, but I don't know if that actually happened or not yet. Someone else on this call might have more insight or visibility to that.

To the latter part of your point, Marc, the procedure itself calls for having a review of it as often as once a year. The last review was triggered over a year ago. So that conflict procedure would be eligible for an additional review or another review, for lack of a better way of putting it. I think that some of the contracted parties, at least, have talked about maybe not being as involved in the last review and not understanding how being involved in that review might have been helpful to situations like this.

I guess what I'm saying is, to your point, there is an opportunity to go look at that conflicts procedure again and see if, through the IAG process and working with the others in the community, you guys – Theo, Marc, and others – can get to a place where there is an alternative trigger that is more workable than the ones that there today.

DENNIS CHANG:

Go ahead, Steve.

STEVE METALITZ:

Thanks. Just a response to Marc. We just sent a letter, which was discussed at great length within this group and which I think provided

some hopefully useful information to the GNSO. I know the Council won't take that onboard. So I don't see how sending another letter a month later to say, "Oh, and another thing that we forgot to mention then..." would help.

Just in terms of where things stand on the WHOIS conflicts procedure, an implementation advisory group was convened by the staff to help look at it and to decide whether there should be changed. That group did recommend a change, and the GNSO Council rejected that change. So the ball is in the GNSO Council's court now. As Krista said, they could ask for another review, I suppose, or take other steps. But again, I think that issue is within their purview and not within the purview of this group.

Since Theo is a registrar and the registrars are well-represented on the GNSO Council and Marc represents a registry and the registries are well-represented on the GNSO Council, I think that's where the concern needs to be taken. Thanks.

DENNIS CHANG:

Thank you, Steve. We have two minutes left on the call. Any final remarks?

Go ahead. Somebody?

KRISTA PAPAC:

It's Krista. Thanks, Dennis. I think you're probably going to say this, so maybe I'm jumping in too [soon]. What are we doing? That's my final remark.

DENNIS CHANG:

Well, we are executing our original plan that we've been working to for at least six months as I know it. When I inherited this project, this was the timeline that we were given. We have been marching to this timeline.

This is the critical question in my mind: if the policy that we're publishing today is not in alignment with the policy recommendation, that's an issue. But if it is, we have to go forward and implement the policy as we are given to implement, and that is our role and the role of the IRT.

So upon the publication this month, we will continue to work together. We already have our meeting schedule for February. I'm proposing a meeting at Copenhagen in March. We will continue to work this project through. It's a complex project and I suspect that we will be learning things and finding things along the way that we will have to iron out.

Are there any other comments? That's the future plan and that's the next step that I have documented here. Can I get some support from the IRT for this plan/next steps?

I understand that we have cold feet and there's nervousness. This is the time. Marc, go ahead. You want to speak?

MARC ANDERSON:

Yeah, I'll go ahead. To your and Krista's point, we can only implement the policy that's been approved. Insofar as we've done that, I'm supportive.

My reservations were in my comments already. I think I'm on record as saying I'm concerned about the conflicts procedure and that it's not really available as a mechanism for us to address potential conflicts as a contracted party.

So I would like to see us continue. You mentioned that we're continuing to meet. I would like to see us not just drop this topic but consider possible options as far as a notification or a potential communication to the GNSO. Some members of the IRT have concerns about this. I think that's a reasonable compromise. It allows us to proceed with the policy but still open some avenues to address some concerns that people are having. Thank you.

DENNIS CHANG:

Thank you, Marc. Anybody else? Joyce? Roger? Theo? I think Steve already commented – plus one, Marc. Yes. Yeah, we will continue to meet and discuss.

Roger is typing.

JOYCE LIN:

Looks good so far, except for the issue that we cannot resolve.

DENNIS CHANG:

Right. Yeah, this is a either/then or we just continue to flip the schedule and not implement the policy, right? Our job is to implement the policy, and that's I think what we should be focused on and do.

Okay. Thank you, Joyce and Roger. All right. It's three minutes past the hour. Let me see if I have heard from everyone who's here. Yes.

So that's our plan. The ICANN organization is in the process of gearing up to announce it and publish it and will be communicating to the relevant stakeholder groups. Expect to see the announcement come sometime this month, but no later than 1 February 2017, as our plan called for.

We'll meet again on 14 February 2017. The time and date for the ICANN 58 meeting has not been confirmed, but I have submitted a session for us to come together. We'll discuss more there, face to face.

MARC ANDERSON: Dennis, this is Marc. One last request. Could you send us final versions of both policies as soon as you have them?

DENNIS CHANG: Yeah, absolutely. Today.

MARC ANDERSON: Thank you.

DENNIS CHANG: Thank you. Okay, everyone, thank you for your attendance [inaudible]. See you again. Bye.

[END OF TRANSCRIPTION]