
RECORDED VOICE: This meeting is now being recorded.

LAUREEN KAPIN: Welcome folks to our safeguards and subteam meeting. Does anyone have any updates to the statement of interest? Okay, hearing none, we're going to launch right into the agenda which starts off with David who actually has good vocal connection today, so that's great. David, you want to fill us in on the changes to your INTA Survey paper and maybe Jean-Baptiste could get that around the new version earlier today.

DAVID TAYLOR: Right, thanks Laureen. I've never been described as having good vocal connection before, sounds quite painful, but I'm glad you can hear me at least. Since last week I circulated this B1 and I've had some input as you can see there, Laureen; thank you Jamie, on the call last week, and I've included that in there; Antonietta as well, obviously she sent me something as well which is great. So I've kind of combined all those comments into one which is the draft you've got there.

Allan also spoke to Neilson to try and cover the issues or the discussion more about the data and the survey and some of the wording in there, so I've covered that off from their reply to me and you'll see that on the second page. What do you want me to do? I mean, time is short on this. Do you want me to run through the changes just briefly which you've all got in there, Laureen, or what do you want?

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LAUREEN KAPIN: Actually, whatever you think [inaudible] and then open it up for questions. And also if you can give an explanation of where this fits into the draft section, that would be helpful also.

DAVID TAYLOR: Okay, I'll take that last question first then and I'm not sure yet because where I'm going on this is once we've got the text that all the takeaways in this bit finalized I was going to drill down and find out where I would put it in. I do note, you made a comment in your comments to me about either concluding with this or as introduction to the recommendations section. What I've got to do as well as I want to build in the ICANN statics section, because if you recall, when we put this together for the draft report, there was some discrepancy between the WIPO figures and the ICANN figures and ICANN getting their figures from WIPO, so we weren't quite sure what was going on and it's seems there's an error in the collection of data so we've got new data which was sent around a while ago.

I haven't looked at that so that's my fault, I've got to get into that and redraft those sections as well and just include that data so I was going to build that, figure out where this fits easiest and least painfully for everybody, so I haven't actually looked exactly where to go but I'm sure we'll find a place. If you can go to the next page, Jean-Baptiste, and I've got scrolling rights.

JEAN-BAPTISTE DEROULEZ: Yes David, you have the scrolling rights.

DAVID TAYLOR: Lovely, thanks. At the top there, this is the bit we discussed it at some length and so there's Laureen and Jamie's comments in here and just to include the total number of respondents there so there's the first three respondents and there's one of those which was a not for profit. If you go down to -- I can tell you scrolling rights don't work on an iPad; if you can go along to the end notes, you've got it in there, in effect I can tell you, in this bit here which says, "Once the response rate of the survey is actually above the norm for a similar sample," that was a question from Jamie and also, Laureen, you had made some comments on there so I went back to Neilson and spoke to David and he confirmed there that the statements based on their general experience was samples of customers or members, so I've put a little footnote in there saying this is based on Neilson's general experience rather than wording coming from it's not my wording per say.

The next bit which was sample size and PTN abuse is small from a statistical standpoint inquires some caution, nevertheless the results are indicative of key themes and trends. That was again the discussion with Neilson, they said it's not a clear trend, it's an indication of a trend or a key theme, so that was right there and they feel that the total sample size was sufficient to give their precise wording directional information about the trends, but they did point out there that there's obviously a high margin of error and that's covered in the footnote to that one, so again, hopefully there that's where we can take these are the trends and keep themes and this where our recommendation which we'd

have 40 or 41 when we're saying about repeating this study we'll be recommending in that that's it's a lighter study so we're getting more replies, it's less grammatic and less in depth. That was that point.

I think the main things [inaudible] really in full on the key takeaways where the average total enforcement costs related to TLD's, [inaudible] whether this was legacy and new but both of those I've included that now per company is 150,000 a year and they're highlighting that there was a range in the survey results ranging from zero up to a million, so that's something again that I'll put in there that we'll benefit from future surveys, so we can get some more data on that.

If you go to the last page there, Jean-Baptiste, there's nothing else on that, I think that's pretty much it. I'll welcome any other comments if you've gotten any, or anything else on the list, that's why I put it around today so we've got a day before we got our name call tomorrow, so I can get this wording finalized.

JEAN-BAPTISTE DEROULEZ: Question from Laureen, David.

DAVID TAYLOR: Okay, go ahead, Laureen.

LAUREEN KAPIN: A couple of questions. Can give us all scrolling rights, Jean-Baptiste? That way I can get to where I have questions? Great, thank you. Regarding the amount of costs in four, I know we have the zero to 5.2

million and so we have this average, and I'm not a statics expert, but is the mean the phrase that refers to the most common cost?

It seems to me that when you have such a huge range that that sort of figure might be helpful, but as I said, I'm not sure that that's the right terminology but what I'm looking for is what was the average cost. Just to be able to put that into context. Otherwise it looks like we just had zero to 5.2 million and this figure may not really constitute something that's typical.

DAVID TAYLOR:

Yup, good question. I'm presuming it's the average, but it's the median, the mean or how that's calculated, I'm not sure. I've taken that from this slide, the 150,000 and that was Antoinette's request to put in the range of costs where I put that in, so I've just literally put the range of costs in there and accepted that's the range of costs. I didn't go back to check exactly whether it was the median, the mean or how they got 150,000; I'll have to go in and look at that now.

But I agree, it looks quite weird to have that sort of range from zero to 5.2 million and we don't know whether the 5.2 million is a complete aberration etc. with one big -- it is what it is. You can throw anything in there and you're going to have questions, so I don't really know the answer, median/mean, they've worked it out so that's what they do.

LAUREEN KAPIN:

So perhaps then what I'm really asking for -- can you just turn your mic off for a minute? So perhaps what I'm really asking for is more precise

wording because if it the typical cost or the median cost, that's actually different from the average cost. I just think the phrasing should be precise there so we actually know what that number is.

DAVID TAYLOR: Yup. [CROSSTALK].

LAUREEN KAPIN: Okay. So my second question is just regarding this footnote for -- I'm sorry, I don't know what NV means; it might be a common phrase but I don't know what it means. And then I still am unclear as to whether that footnote four, is that just a literal string of comments that were included in this survey?

I just think that -- yeah, cause your footnote four relates to six. If you're going to have a footnote that lists, "Here's the verbatim comments from the survey," I just think you need to introduce it more clearly so that when folks look at that footnote they know what it is.

DAVID TAYLOR: Okay, yeah. And these notes at the end only and it was just retaking it from the Neilson report where they're saying the internet monitoring and they said exactly what it is and the background of that specific point what is the internet monitoring, so yeah, I could certainly put in there a little, "This is to define what the internet monitoring is." But I mean, we're saying that the figure for the internet monitoring, this amount which is in there, is one of the main costs and should be qualified, so I'm putting in their language of why we're qualifying it, what actually is the

internet monitoring because that's one of the things we want to talk [inaudible] when we started going through and what was included in that rather large internet monitoring number.

That's suppose to define that and then we then go on to the other, I put in there, if you see the red on the next page, on page four, it's Neilson's comments on the report findings, that's just confirming that's what it is and pointing to the other anecdotal evidence which has been listed in there. Maybe I need to spiff that up and move that anecdotal evidence to another footnote. I'll have a look at that, no problem.

LAUREEN KAPIN:

Yeah, I'm finding the footnotes a little confusing as to what they are. In fact, I would suggest -- I'm sorry, can you turn mic off when I'm talking? Great. For example for this one, instead of the -- whatever it is, pardon my ignorance of this term, I would just say straight out, "Neilson explains that...", and then put your quotes, so that we don't have a term that others like I may not know. So we know exactly what this footnote is saying, which is Neilson's explanation or caveat to this remark. And I just think it would be more clear if it was introduced that way. The Neilson's comment on report findings, that either needs a transition or some introduction just so it's clear what it refers to.

And then I see it's note five, not note four that relates to this list of comments that's being shared here. Again, it would be more clear if that were introduced either by a comment in the text relating to footnote five, "The responses were varied but provided useful insight into the mindset of brand owners responding," and there's your

footnote five, so that's properly placed. I would just have an introduction in the footnote, "These are quotes for some of the findings," or something like that, or "The survey responses were as follows." Just some sort of introduction so folks are oriented.

DAVID TAYLOR: Okay, helpful. Thanks a lot, Laureen. [AUDIO BREAK]

JEAN-BAPTISTE DEROULEZ: Any other comments, questions for David? [AUDIO BREAK]

LAUREEN KAPIN: It looks like Carlton and Gao are having trouble hearing. I don't know if there's anything that you're able to do, Jean-Baptiste and Brenda, on your end but I'm noting the comments in the chat.

We have a small number of folks here today but these are the folks we have, so I think if there aren't any other comments, I'd like to see if we have consensus on this rewrite and what I'll ask, if folks don't have any other questions, if there's anyone who objects to including this in the next iteration of our report. [AUDIO BREAK]

Okay, so I'm not seeing any objections so I think what we should report here is that the subteam has reached consensus about this, since everyone has had an opportunity to weigh in on this in general, but perhaps, why don't we say has reach provisional consensus and perhaps, Jean-Baptiste, we can send out a note reporting that we've reached provisional consensus to the subteam but if folks have any

other comments or concerns they need to circulate that today before the plenary call tomorrow because that's where we'll seek full consensus. Does that sound like a plan? I just want to make sure people have a chance to read the revised version as it was just recently circulated.

DAVID TAYLOR:

Laureen, what I can do if you want, I'll put those comments in for the Neilson bit, which we just talked about now and get that around as another version after this call. Not straight after this call, I've got a client call for an hour and a half but after that, so that everyone's got the version which is being provisionally consensus upon in our sub group.

LAUREEN KAPIN:

Great, thank you, and thanks for all your work on this. I know it was a lot of competing priorities and I appreciate you getting this done. I see Carlton in the chat has also seconded making sure we characterize the Neilson language with clarity. Then I think we are moving on as we characterize before this started the headliner act Drew, the DNS Abuse Study paper, especially because you have some rather meaty new recommendations for our discussion.

DREW BAGLEY:

Thanks Laureen, and starting on my session, turns out it was a bit higher than at the beginning of David's, I'll just point that out. This chapter, basically I outlined this in the email last night; if you look at the

language of the chapter itself it's largely the same as last week except with some more precise language to describe the findings from the study, in particular cases in which I realized it would have been better to use some qualifying language or I went back and made sure that we're correctly describing rates of abuse versus total numbers of abuse, instances and items like that.

So you'll see that in the body but otherwise that's largely the same, and then I also went ahead and incorporated the edits that were suggested last week to some of the body. I added some clarifying language to a point Calvin made and then Waudu had sent me some suggestions on his own via email and I incorporated those too. I'm not seeing the -- is this with changes accepted? Jean-Baptiste?

JEAN-BAPTISTE DEROULEZ: Yes, I think so, Drew. If that's an issue --

DREW BAGLEY: Great. I was looking for the red text and didn't see it, okay great. Definitely everybody go back and reread it but the body of the text it seems like we already have full consensus on. Then going to the two recommendations that we've gone over so far, the first one beginning here with recommendation one, I've gone ahead and incorporated the feedback I got last week to slightly broaden the language, so you'll see instead of only calling on the community to provide financial incentives we're now saying, "Provide incentives including financial incentive to registries, especially open registries to adopt proactive anti-abuse measures."

And the rationale remains the same because it is of course the open registry that do not have the registration restriction that have a correlation with reduced instances of technical DNS abuse. With that said, as we discussed last week, there are other potential incentives. I think Jamie pointed out that in other industries of course there are voluntary field programs for businesses to show that they adhere to a certain code of conduct, certain code of standards, and so there could be other incentives like that but this would at least call on the community to develop such incentives.

Recommendation two is the other side of that, the penalties dealing with systemic abuse and actually giving ICANN a means to go beyond just an individual complaint by complaint process per domain name and actually deal with registrars that have high rates of systemic abuse but they aren't doing anything about. The only change that was made since last week was I expanded this per, I believe, Jordan's suggestion to also include registries so that we would be suggesting that both the RAA as well as the registry agreements are amended to permit ICANN to deal with this type of systemic abuse.

And so from all of our conversations the past couple weeks it seems that we have consensus of both of these so definitely correct me if I'm wrong on that but it seems like people had minor feedback on those style of the language but then we have consensus on the true recommendations themselves, and I as I mentioned, the body of the DNS Abuse Chapter.

Real quick, is there anyone who disagrees with that, where they disagree with recommendation one or recommendation two or the

body of the text? Okay, seeing no objections, then I think we have consensus on that part which then brings me to the new part where we have not yet had a discussion. For this I'm going to turn it over to David -- oh, sorry.

LAUREEN KAPIN: You had a question from Brian, although he now put his hand down, never mind.

DREW BAGLEY: There are two new -- okay, Brian will have one in a minute, we'll go back to Brian in a second once he has his question ready, but for now taking a look at the two new recommendations that have been purposed. This came out of David's discussion from last week and then David followed up with me after the meeting and proposed a recommendation dealing with further studies of the various variables that affect DNS Abuse and these are variables that came up during this study but for which we were not able to go far enough with our conclusions to come up with policy recommendations without more data.

The other one is a proposal to create a dispute in -- could someone mute or Brian maybe he hasn't got that noise. The other one is to come up with a dispute resolution policy similar to what exists when dealing with intellectual property infringement. This would allow agreed individuals, so victims of DNS Abuse to have a mechanism for recourse. With both of these I am going to turn this over to David to better explain them and what his ideas were for each of them.

DAVID TAYLOR:

Thanks, Drew. These have come out from -- it goes back to our last face to face when we came across the issue of the registry operator and we saw the very high levels of abuse when we had the DNS study and then we had considerable abuse by a registrar and the fact that the registrar and the registry operator were linked. It was a way to try and think about how we deal with those sort of scenarios where you have the registry operator and registry, and the registry might be under the control of the registry operator or vice versa.

That was one of the things we were looking at and also obviously looking at the DNS Abuse where we've seen that the level of abuse is higher in the open registries than the ones where there's stricter registration policies, nothing surprising there. But again, trying to figure out what we can do about that and what should registry operators do, and that was where I was giving it some thought and thinking, "Well they should be cleaning it up or they should be putting in stricter policies."

So ICANN compliance should be tasked with going after that in my mind but then also in discussions with Drew we were sort of chatting around the various things and I was looking at the PDDRP which we have for the trademark infringement, post delegation dispute resolution which goes after a registry operator which is effectively allowing mass scale registration of infringing trademarks within their registry and having a mechanism to dealing with that.

Now, that goes back to the 2009 implementation recommendation team work and actually historically it's interesting because it was same thing; we were saying back then ICANN should do this, ICANN should be doing the compliance and stopping this, and this PDDRP was born after the fact that, no, it should be third parties should be doing this not necessarily ICANN. My feeling on this is one which is very much a personal view but it should be ICANN, but in default, if it isn't ICANN then let's see if we couldn't put in a policy and a registration dispute resolution policy of DNS abuse, one which could be used by affected parties.

That's really the background on this and if we go -- if I've got the scrolling rights then we've got recommendation -- hang on, could you go back one page to number 11? Oh, I can't go back now, I've certainly gone too far, probably cause someone else is doing it. That's it, thanks. So recommendation three was this idea, "Further study the relationship between specific registry operators, registrars and DNS abuse by commissioning ongoing data collection regularly published in order to be able to identify registries and registrars that need to come under greater compliance security."

So the key thing here was it's both the registrars and the registry operators, it's ongoing so it's something we don't wait for a review in five years' time, in which case we can have everything abusive under the sun over those five years published regularly so we have something there which is able to look at it and the data is there for ICANN compliance to look at it and to take action as need be. Throw that open, you've got the rationale there, which I can let other people read

through. If you want to have a chat about that or any thoughts, please do and I'll turn my mic to mute. [AUDIO BREAK]

LAUREEN KAPIN:

So I'll call on myself since I don't see anyone else's hand up. I was wondering about the study's conclusions about registries. It seemed to me that they called out certain registrars and they noted some registries that had higher levels of abuse, but that also seemed to correspond with the larger registries, I'll say, just to put it more concisely. I was wondering what data particularly you were relying on to make your observation about the DNS Abuse Study's conclusion about particular registries? I just think we need to be careful with that language. I welcome --

DAVID TAYLOR:

Sure, Laureen. That was the part in the -- I think I quoted it, I quoted it somewhere else in the data, we got the Spam House for example and they had dot signed 51%, dot stream at 47%, dot study at 33%, etc, so it was going down but it was exceedingly high if you got that amount abuse in a particular registry operator. There's certainly them out there and you've got your various black lists which all sort of the data was pointing to these ones being pretty high.

LAUREEN KAPIN:

That's right, and now that you say that, I recall that. I'm wondering if we could call that out. Do we highlight that in the narrative, Drew? That I don't recall seeing in your narrative, although I could be wrong

and if I am wrong maybe you can point it out. I guess the point I'm making is if we are going to call out high rates of abuse in registries in our recommendations, we need to make sure that discussion is somewhat prominent in our narrative because we talk about registries with the highest rates of fishing for example, but what I think is more persuasive are the statistics actually that David just cited which is that certain registries have these objectively high rates of abuse, where it's almost 50%.

As I said, I could be missing it and if I am, happy to have it pointed out to me, but if I'm not, I think we need to say it more prominently, which means in my mind not just in a footnote but in the text.

DREW BAGLEY:

Yeah, you're correct, Laureen, that we do not have all of those registries described in the text of the chapter itself. I'm going back through it to see I'm forgetting something, but we do not and I agree, we would need to certainly include some analysis on that in the body of the text, so that way that would be a link to the recommendations we're making.

LAUREEN KAPIN:

Yeah, that's exactly right, cause I think it's a really important point and I'm really, really glad actually that David has picked up on this point because it's crucial, so I just want to make sure that we are reinforcing it by highlighting those findings from the DNS Abuse Study; that way the recommendation doesn't appear to be detached and then is supported. Thanks.

DAVID TAYLOR: Yeah thanks, Laureen. I was just following up on that. I've put that in recommendations four, so you have got some text in there, which is what I've pulled out from the DNS Abuse Study. That was when I was trying look at what the levels should be, the 10% level, so I was trying to figure out where we should draw the line basically, so I was just looking at those. It's in with recommendation four, it could easily be in the details for recommendation three, but I fully agree with you, it should be in the text because it's a key thing to pull out.

LAUREEN KAPIN: Okay. I see Brian has his hand up.

BRIAN AITCHISON: Thanks, Laureen. I just wanted to comment on the way price is characterized in the report. Throughout it kind of indicates that pricing correlates with abuse and it sort of presents it along the side, things like registration restrictions that were actually tested and actually do statistically correlate with abuse. Pricing was not tested in the study, the chapter indicates that there is a correlation. What you see in the study is the authors hypothesizing that certain TLD's have more abuse because they did have low prices but they only look at one, two, maybe three different TLD's by my recollection, and say, "Hey, these guys also ran low priced promotions and we saw spikes in abuse."

So I just want to caution with the language we're using because they didn't actually statistically correlate pricing with abuse. It's still, from a

sort of research perspective, an open question as much as we may all kind of know that that relationship kind of exists. Also just sort of an admin type comment, we've gotten two public comments so far on this and I think it would be relevant to drafting these recommendations. I've only been able to look at them cursedly but I think, especially Drew, I think you may want to read through, I think they'll be useful for helping you draft these recommendations as well. That's my comment, thanks.

DREW BAGLEY: Thanks, Brian. Have you already passed those recommendations to us or you're just seeing those on my website? Great comments, I mean --

BRIAN AITCHISON: No, the public comments are just up. We just got one this morning and one a couple days ago. We extended them out the 22nd, the public comment period. They're up online.

DREW BAGLEY: Okay, great thanks.

BRIAN AITCHISON: Happy to circulate them if you can't find them.

DAVID TAYLOR: David here. Just going to probably pick up on a comment from Carlton I just saw on the chat there about how a reasonable person knows if

these commitments are worthwhile? What's the evidence of enforcement etc. That goes to the heart of the question of the recommendation because the rationale which you'll see on that recommendation three, on the top there, so I put the DNS Abuse Study it's highlighted, "Certain behaviors are diametrically opposed to encouraging consumer trust in the DNS. Certain registries, registrars appear to either positively encourage or at the very least willfully ignore DNS Abuse. Such behavior needs to be identified rapidly and action taken by ICANN compliance as necessary."

What action to be taken by ICANN compliance? Don't know, what do we say, where do we go with that recommendation? I've kept it vague deliberately because it's something we obviously need to discuss because we're pushing this one forward and I don't want to charge too far ahead with it. What is the level should we say; is it a 10% as defined by various studies? How do we deal with this mass registration and this high level of abuse in specific registry operators and what should ICANN compliance be doing in this area? I think that's something we do need to discuss. [AUDIO BREAK]

LAUREEN KAPIN:

Other comments or questions for Drew and David on this?

DREW BAGLEY:

David, I have a question for you with regards to recommendation four and better understanding how that would work in practice. What's your just anticipating the public discussion ahead if we go ahead with this comment after of course getting consensus from the whole review

team? What's your sense of how a registry would deal with these sorts of complaints, especially if there was a registry that had, just because it was large, a dot com for example, or dot XYZ, if they had a bunch parties who could claim they were somehow victimized, they received spam from a domain name registered at that TLD, they clicked on a fishing link, whatever it may be; how would they deal with the flood of complaints? Or how would you see that being handled so that you would weed out also maybe frivolous complaints?

DAVID TAYLOR:

Good question, Drew. I take some guidance from the actual -- with the PDDRP and what happened there with the trademark abuse, cause least in our kind of analogist, at the time when were going through and the PDDRP was purposed and obviously as it was purposed originally and what it ended up in were quite different beasts, but the big concern from registry operators were that they would have a flood of trademark owners all complaining etc. and basically in some way stopping the registry doing any sort of work or continuing its business; but there's been no complaints to date. It's something which there, it's a very strong stick to hit the registry with but it's got quite a high bar to be able to hit them with it.

To my view, it's one of those things is that a successful RPM or not a successful RPM if it's never been used, I'd argue that it is successful because it's been used as a deterrent and we're not seeing a dot science, to take that with the 1% of its domain names being infringing trademarks. But we are seeing it on DNS Abuse, and to many, the DNS Abuse is possibly worse. That's where I'm thinking on this, it would

something which would be defined, created were the bar is sufficiently high to stop frivolous claims and actions coming in.

If we've got this definition, and I've suggested 10%, there's no absolute science behind that 10%, it just strikes me 10% of the entire domains are abusive, then there is an issue there, and if ICANN compliance takes it up or doesn't take satisfactorily and then we're able to or other people are able to use this dispute resolution mechanism, it's one which is then fired off, and it'd be an expert panel decides yes, this registry has got something to do with these registrations, they're not being targeted, it's more about willful blindness, they're ignoring it or they're encouraging it and that's where you get into the wording, obviously.

But if you filed that case and then they're given the chance to right it, to right the wrong, then they get the chance to clean up and I think that to me is the goal of everything, the registry has the chance to clean up those domain names and the abusive ones do get deleted and removed and shouldn't be there. I think that's where we all would agree that that's the case and you're not saying that the registry can't operate; it's still got 90% of its domain names, which can be used for anything, so to my mind it would be a graduated affair where you'd have that option.

You'd have to clean up and we'd suggest you put in place further registration requirements, but if you don't do that and you ignore it, then that's where a complaint could be brought and would be successful. I would seriously doubt it would be used for very frequently. If we're looking at these ones here, we're looking at 10 of the TLD's out 1,500 of whatever which have this high level of abuse and those are the ones which need to have that abuse removed from them surgically,

that's really where we are going on this. I think the bar would be sufficiently high that you wouldn't be having the frivolous claims being fired off, and again, you're going to have a filing fee of several thousand US dollars so people aren't just going to be going willy nilly after registries.

DREW BAGLEY:

Thanks, David. I think it would also be beneficial if you could discuss what you envisioned with how this would fit in with our second recommendation as far as whether or not there would first have to be some sort of action or inaction taken by ICANN before someone could file one of these complaints, or whether both things could exist at once, or ICANN could be doing an investigation, asking questions to determine if they're going to suspend an operator while someone might actually be filing a complaint too. If you could address that, that would be really helpful I think for everyone.

DAVID TAYLOR:

I mean, the answer in all honestly I don't know. This is pure brainstorming and thought going. It could be an ICANN first compliance, then if unsatisfactory this process, this dispute mechanism kicks or it could be something which is in parallel. My gut feeling says ICANN might quite like the idea that it's being brought by a third party because I know they quite like the idea of PDDRP, that it was brought by a third party. So it might be something that's encouraged and if we got the rights to the policy we'd be able to use it in the right way. I think it would get the result that we need there.

As to which, how it would fit together with the ICANN compliance, we do need to discuss that between ourselves and with ICANN and just see what's the preferable route, shall we say. I do think there's some mileage in it and at least if we can explore we can see and see how that ties in with the recommendation too I agree, but those things we do need to continue working on and discussing.

DREW BAGLEY: Calvin's hand is up. Calvin, why don't you go ahead with your question for David.

CALVIN BROWNE: Okay, yeah. Looking at this, I have a bit of a problem when it comes to what is the definition of abuse. It's always difficult when you say, you've gone and said for instance 10% of domain names are black listed for example. Now, these black lists are run by people who have no contractual relations with the parties involved. A lot of them have reasonable things for black listing and some have arbitrary reasons for black listing.

So we get into something that I think is difficult or we must be careful or I need more information on, you know, what exactly is going to be defined as abuse and we probably need to be clearer on that before we can [inaudible] on this, I think.

DAVID TAYLOR: Thanks, that's helpful, and I agree completely on that. It's not the sort of thing that we should have one black list provider who identifies a

specific domain name registry operator as having 50% but no other provider identifies that and thereby someone based on that one singular result can go after a registry operator. I think we've tried, Calvin, to put something in place where we look at the numerous ones that are out there, exactly as we got in the report where we've got the stop bad ware, apwgs is spam house, secure domain foundation, clear mx, maybe we do something where there's at least three or at least five, a cross section of the following to be completed when more come on board, the more resources.

But you're looking at a cross section of them and if you've got three or four or five of them all saying that say dot signs is up there with a 30% to 50% or 30% to 70% abuse rate, then it's a clear, no brainer that it's over the 10% mark and than that would be a justifiable one to go after. But I don't think you'd be getting it if there was just one provider black lists it and get's it over to 15% and none of the others have that. I think that would a long way. We have to have some wording in there; it's got to be done objectively. [AUDIO BREAK]

LAUREEN KAPIN:

Thank you. Did folks have more questions for Drew and David? [AUDIO BREAK]

Jonathan, if you are on that call, I thought I might put you on the spot. David's recommendation four is very specific and I'm wondering just based on your experience, and this is open to everyone of course on the call too, but I'm wondering what you might anticipate the reaction to

this specificity being about a resolution policy that would come in if ICANN fails to act?

And one of things I was toying with in my own mind is whether we want to put this in more exploratory such a wishy washy word, but basically a recommendation to consider alternatives for the community to take this up if ICANN fails to act in these certain instances, which is certainly a complaint that we've seen posited over the years, that there's continuing instances of noncompliance behavior but there doesn't seem to be any action taken. So food for thought, I certainly welcome Jonathan's and anyone else's reaction to that concern/statement I just made.

JONATHAN ZUCK:

Thanks, Laureen. I guess personally I'm not particularly afraid of specific recommendations. I mean, the difficulty I think is that we're not supposed to be doing policy development, and I'm not sure that I see this as policy development necessarily, but it's tough to know how the community will view it. In Jordyn's email to the list he suggested that registries and registrars are going to push back hard against this and he believes with good reason that we ought to be looking for ways to improve ICANN's enforcement function rather than supplanting it.

I think that that's -- I was trying to find the email, for some reason I can't' my transition between emails has been a rough one unfortunately, but that was his pushback on the list. Jordyn is probably, given his participation on our team, the most polite of his cohort on these issues, so I think there will be a pushback by a number of people

on this. Perhaps some of the guides of it being too specific but also just because there's this belief that we shouldn't just create a third party institution to do what ICANN ought to be doing itself.

And I don't know the answer myself. I feel like this falls outside of the realm of policy development which is where we were specifically meant to just make as you say consideration recommendations. It's also generally enough worded that the actual -- the acceptance of this would still lead to some sort of a design effort after the fact and I think that would still be left for the community.

So, I don't know, I'm mixed; I like the specificity of it. Thank you, David, for putting this thought into it and I do believe that there's been some pushback from Jordyn that we'll here on the plenary and that that will be reflective of contracted party pushback in the community. I don't know if this will survive, I'm not sure that its specificity is the issue.

DAVID TAYLOR:

Thanks a lot for that, Jonathan, and I completely see where that pushback will come from. It's just hopeful we can make it specific enough yet exploratory enough, to take Lauren's wording, to be something because there was a lot pushback from registries with the PDDRP because of the fear of that it was some weapon which would be misused. And I think that's clearly been unfounded because it's never misused.

If we can get a stick -- if ICANN's got a big stick, we don't need this, so I fully agree with that, that we need to have that big stick. But then if ICANN don't have the big stick, and to me when I look at a dot science

with 51% abuse and it shows that's current and that's abuse, and it's not being dealt with, and I think somebody could come along and make use of the process to deal with that. Hopefully they would be buying from the registry operators to deal with those sort of bad actors as such. Anyway, we do need to discuss.

JONATHAN ZUCK:

I think it's worth having the discussion for sure. We just spent two years putting accountability mechanisms in place and it could be that some kind of reform needs to be driven internally so that they are getting with it. I guess that's the argument Jordyn was trying to make. Which you'll get a more articulate version of on the plenary tomorrow, I'm sure, but I think that's the pushback.

I think most registries and registrars do want a way to deal with bad actors, as you say David, because they don't want to be painted with such a broad brush and it's just a question about whether or not you're creating a kind of a management headache for the rest or something like that.

David, thanks for your presentation, I see you've got to drop off, but please do make the plenary cause I'm sure that this discussion will come up with Jordyn on the call.

LAUREEN KAPIN:

Right, and I see that we're over time. Thank you for refocusing that and I think the better way, Jonathan, that's much more articulate than I was. So we will take this up again tomorrow. The one issue that I would say

folks should focus on is hearing Jordyn's feedback about also how does compliance relate to this. It's perhaps giving food for thought about whether there should be any recommendations that are directed to ICANN compliance, so again, food for thought. I think the second recommendation is directed there somewhat.

So thanks everyone for participating. We will take this up again tomorrow and I think we'll also probably get a read out on where we are with our work plan on this because I'm suspecting we're a bit behind. With that said, let's all plan on joining again tomorrow and thank you for your time and effort today.

[END OF TRANSCRIPTION]