
RECORDED VOICE: This meeting is now being recorded.

JONATHAN ZUCK: Hey folks, welcome to Plenary call 58 of the CCT Review Team. I heard -
- oh, Drew is on the Adobe Connect now. Is there anybody else that's
on the phone but not in the Adobe Connect? Alright, and is there
anyone with an updated statement of interest? Excellent. Let's jump
right in and let Drew present his near final DNS Abuse paper. Take it
away, Drew.

DREW BAGLEY: Thanks, Jonathan. I was not able to make yesterday's Subteam call but
from what I understand it sounds like as a Subteam we have updated
language for recommendation three -- laptop connected to the Adobe
room so I'm not able to [inaudible]. Laureen, could probably chime to
speak as to whether that language has been sent.

LAUREEN KAPIN: Yes, I believe that this language was sent around yesterday after our call
so that folks could see it. For recommendation three it was a fairly
minor change, I'm getting to it. Does everyone have independent
scrolling? Okay, perfect.

JEAN-BAPTISTE DEROULEZ: And the recommendation three is on page 11.

Note: The following is the output resulting from transcribing an audio file into a word/text document. Although the transcription is largely accurate, in some cases may be incomplete or inaccurate due to inaudible passages and grammatical corrections. It is posted as an aid to the original audio file, but should not be treated as an authoritative record.

LAUREEN KAPIN:

Yes, great. If everyone scrolls to page 11, towards the bottom of the page, which is where recommendation three starts, you'll see the revised language in blue. These are two changes, the first of which, this recommendation to orient folks is to further study the relationship between specific registry operators/registrars and DNS Abuse by commissioning ongoing data collection and here is the new language, we've included a reference, including but not limited to ICANN domain abuse activity DARE initiatives because that actually is an existing activity and one of the ICANN organizations comments to us in the public comments is to see where existing initiatives can actually align with our recommendations and that one's spot on so we added that reference.

Further study the relationship between specific registry operators, registrars and DNS Abuse by commissioning ongoing data collection, including but not limited to ICANN domain abuse activity reporting initiatives regularly published in order to be able to identify registries and registrars that need to come under greater scrutiny by ICANN compliance. The original recommendation there was no subject for this greater compliance scrutiny but clearly the division or group that is being discussed here is the ICANN compliance group so we thought greater clarity could be added by making that more specific. That is the change to recommendation three. There's also another change in the two part i.e. who is this directed to.

We also added a reference to the SSRT Review Team, because that is getting started and DNS Abuse would seem to fall squarely within its

remit. Those are the changes just to orient folks. I'll pass the baton back to Drew, but I did want to clarify what those changes were and why.

DREW BAGLEY:

Thanks, Laureen, and I apologize in advance if I have a lot of background noise for my connection. I guess for today's call what we should do is first of all clarify that there is consensus on the body of the DNS Abuse chapter as well as through firming what I believe we confirmed last week that we have consensus on recommendations one and two.

With that said, Jamie sent me some great language that I've not been able to incorporate yet, but basically Jamie has provided me with language to better direct recommendations one and two but not change the substance of what they are recommending, but instead change the wording out where what we're directing the ICANN Board with regards to the process, so that's something that I will try to update tonight or tomorrow. With this call [inaudible] then I'd like to volunteer achieving consensus for recommendation three and [inaudible].

JEAN-BAPTISTE DEROULEZ:

Hey Drew, we seem to have lost you. You're dropping in and out, can you hear us?

DREW BAGLEY:

What was that? Yes.

JEAN-BAPTISTE DEROULEZ: Okay, it seems we lost the last two minutes. Could you start again, please? Sorry.

DREW BAGLEY: I was just going to say the main thing we should try to achieve in this call is first confirming that we have consensus on the body of the text for the DNS Abuse Chapter as well as recommendations one and two. I will make a language update [inaudible] that will not affect the substance but will change the [inaudible] that's directed to the ICANN Board.

Jamie has sent me [inaudible]. I'm sure they were completely accurate with the process and how the recommendations differed. [Inaudible] confirmed, but I just wanted to ask, is there anyone who disagrees [inaudible] body of the text and recommendations one and two? And I can't see, so Jean-Baptiste, if you wouldn't mind being my eyes. [AUDIO BREAK]

JEAN-BAPTISTE DEROULEZ: Drew, there is no reaction right now in the Adobe room. Can you ask your question again to make sure everyone has heard? We have a few people who cannot hear you properly. Can you hear me? [AUDIO BREAK]

Drew?

JONATHAN ZUCK: I believe he asked should we figure out whether not we have consensus on the language for recommendations one and two, was his first question.

LAURENN KAPIN: That's right and I think he asked explicitly if there was any disagreement. I'm not seeing any disagreement and I actually think we had achieved consensus on one and two in our prior Plenary; it was more three and four.

JONATHAN ZUCK: I think that's right. [AUDIO BREAK]

LAUREEN KAPIN: I'm not seeing any disagreement. Looks like we have typing.

JONATHAN KAPIN: Including from Drew.

LAUREEN KAPIN: Right, right. So I'm wondering then if it would make sense to move on. We're only seeing consensus and agreement in the chat. So I'm wondering if it would make sense to move on to discussion of recommendation three, which has changed I think in a fairly minor way. Kaili, I see your hand is up.

KAILI KAN: Thanks a lot, Lauren. Regarding recommendation three, the last sentence now reads, “Registries and registrars that need to come under greater scrutiny by ICANN compliance.” I would like to say that [inaudible] registries and registrars that need to pay special attention by ICANN compliance.

LAUREEN KAPIN: Sorry Kaili, that need to what?

KAILI KAN: Need to be pay special attention by ICANN compliance.

LAUREEN KAPIN: I’m wondering if can get more specific because I think what you’re pointing to is perhaps a vagueness in the language, greater scrutiny but I’m thinking special attention might also perhaps not be as specific as we want to be because I’m not sure what special attention means. And I’m wondering if Drew has any thoughts on perhaps greater clarity for this phrase. [AUDIO BREAK]

I see Carlton is typing. [AUDIO BREAK]

Drew, I’m wondering if you’re able to type any feedback here? [AUDIO BREAK]

And Calvin, I see your hand is up while I’m waiting for some responses. Drew, I’m going to repeat what Kaili said so that you hear the issue. I think Kaili was identifying a concern with the phrase “greater scrutiny”

and perhaps a lack of precision there. Kaili had recommended as an alternative special attention, I'm concerned that that suffers from the same lack of clarity, but I take Kaili's point that maybe we want to be more precise with our language there.

I see that Carlton is responding in the chat, greater scrutiny is optimal language being ICANN compliance already has the mandate and the means to be looking at these activities, I'm filling in Carlton, what that languages says is step it up; I do agree with that.

Drew, that's the issue, so any responses you can put in the chat, that would be great. Calvin, I see your hand is up.

CALVIN BROWNE:

Okay, mines just one of making a little bit more understandable and I would put a full stop after "abuse activity reporting initiatives", so put a full stop and then say this should be regularly published in order to identify registries. I just think it reads a little bit difficult.

LAUREEN KAPIN:

I think your right, Calvin. I think it's a long sentence and that breaks it up. Jean-Baptiste, is it possible for you to be holding the pen on this so this gets executed? Do you need that to be repeated, Jean-Baptiste?

JEAN-BAPTISTE DEROULEZ:

Yes Laureen, and if you wish we can do the same as yesterday if that's easier.

LAUREEN KAPIN: Yeah, I think that would work better, Jean-Baptiste since this is in the middle [CROSSTALK].

JEAN-BAPTISTE DEROULEZ: Give me a minute and I'll do that.

LAUREEN KAPIN: Sure. In the mean while, Kaili, I see you want to respond, go ahead. I'm having trouble hearing you, Kaili.

KAILI KAN: Thanks, [inaudible]. My only concern is that our recommendation as I understand [inaudible] the conversation may be [inaudible] special attention. It's just [inaudible]. That's all.

LAUREEN KAPIN: So thank you, Kaili. Kaili is comfortable with greater scrutiny, I think persuaded by Carlton's discussion in the chat. Other comments and questions on recommendation three? [AUDIO BREAK]

Okay, Kaili I'm assuming that's an old hand that you just haven't put your hand down. [AUDIO BREAK]

Okay, I think then we are ready to edit based on Calvin's input to make this long sentence a little more readable by putting a period after "including but" -- actually let me add a comma also -- "including but not

limited to,” comma; let’s add a comma there, “ICANN domain abuse activity reporting initiative”. And then period would come after there initiative.

I think it should be a period there, Jean-Baptiste, instead of a comma, after initiative; no, period. Initiative, period, and then we’re going to start a new sentence. It’s going to be “ICANN domain abuse activity reporting are initiative” period. “This information should be regularly published...”

JEAN-BAPTISTE DEROULEZ: Sorry Laureen, I seems to have lost you.

LAUREEN KAPIN: Can you hear me now? “This information should be,” and then I think we’re okay. That’s the proposed change. I see Kaili is having reception problems again, that’s too bad.

That is recommendation three, which I would like to poll the group for consensus on. What’ll ask people to do is indicate their disagreement; if anyone disagrees with this recommendation three please note it in the chat by indicating a disagree, in the chat or in the Adobe Room, which ever you would like. But my sense is that people are in favor of this so I’m trying to suss out if anyone has any disagreement. Are there any disagreements with this recommendation as its phrased? [AUDIO BREAK]

Kaili, I see your hand is up.

KAILI KAN: Yes, it's very minor. It just needs a comma [inaudible].

LAUREEN KAPIN: I'm sorry, Kaili, there's a comma after "limited to". I didn't hear what your suggestion was.

KAILI KAN: My suggestion, my feeling is that the comma should be [inaudible].

LAUREEN KAPIN: Okay. Anyone else with comments or questions? Okay, I'm not seeing any disagreements on recommendation three. I think we can add consensus reached on recommendation -- I'm sorry, Waudo, go ahead.

WAUDO SIGANGA: A question on the wording. This last sentence it says, "This information should be regularly published in order to be able to identify registries and registrars that need to come under greater scrutiny." I'm wondering what's the link between publication and the greater scrutiny by ICANN compliance? What I mean is that, in my mind probably publishing it might have another purpose apart from giving ICANN compliance the ability to scrutinize it. Is there a link between publishing and ICANN compliance's ability to scrutinize?

LAUREEN KAPIN: Drew, do you want to respond to -- I hear you, Waudu. I'm going to ask Drew to respond to your question.

WAUDO SIGANGA: Drew, maybe I can make it a bit simpler, what's the purpose of publishing, can you answer that? What's the purpose of publishing this information?

LAUREEN KAPIN: You know what, I'm not even seeing Drew. I think Drew's working on his connection. I'm going to channel Drew. I think we've lost Drew, that's unfortunate. I think the reasoning behind publishing is for transparency both to the community -- yeah, and Calvin's echoing exactly what I'm saying; is to give [CROSSTALK] transparency. Which hopefully would have the dual purpose of not only informing the community but with also provide the information to ICANN compliance so it can discharge its appropriate functions. And Carlton is --

WAUDO SIGANGA: With that explanation I think I would suggest that then you just -- sorry.

LAUREEN KAPIN: Go ahead. I can hear you, Waudu.

WAUDO SIGANGA: The suggestion of giving it is very good. What I would suggest is that you have two separate sentences. There should be a sentence that is

indicating why the information should be published; it is for greater transparency etc. Then there should be another sentence that now says that ICANN compliance should put greater scrutiny on those registrars and registries that are identified.

I think you ought to separate sentences. This sentence as it is is not really explicit to what the purpose of publishing is for transparency etc. In fact it gives the reason “in order to be able to identify registries that need to come under greater scrutiny”, but I think it needs to indicate there that it should be regularly published to improve or increase the transparency of...

LAURENN KAPIN:

Okay. We still don't have Drew. I'm wondering if it would -- and Carlton --

WAUDU SIGANGA:

I'll try to send something in the chat.

LAUREEN SIGANGA:

That would be good. I'm wondering, “This information should be regularly published in order to be able to identify registrars.” How about -- because I'm a little bit -- it looks like Carlton, to make this too long and involved but what about if we just add a reference to transparency, “This information should be regularly...” -- I'm just thinking out loud here, so give me a moment.

WAUDO SIGANGA: I tried to send something suggesting what I'm thinking about. [AUDIO BREAK]

LAUREEN KAPIN: Yeah, I like Calvin's suggestion here and also I'm going to read aloud Drew's message to post. For recommendation three Drew is recommending attaining increased scrutiny but also add high priority, so it would be increased scrutiny and high priority by ICANN compliance. And then Calvin's suggestion is, which Carlton can handle, which is good, would be to add the clause for transparency purposes.

Let me suggest this than. Jean-Baptiste, for the sentence starting "this information", can we add the phrase "for transparency purposes," and just add that to -- no, I'm sorry, Jean-Baptiste. I'm not being clear enough. "For transparency purposes" should be at the beginning of the sentence, it should be "For transparency purposes", comma, "this information," and then we're going to go to the end of the sentence, "regularly published in order to identify registries and registrars that need to come under greater scrutiny and higher priority by ICANN compliance." So that's the suggestion. Waudo, I don't know if that's a new hand or an old hand. If it's a new hand, go ahead. [AUDIO BREAK]

Okay, Waudo's hand --

WAUDO SIGANGA: That's an old hand, but I'm happy now with the change, thank you.

LAUREEN KAPIN:

Good, that's great. So we fine tuned this. Again, I'll ask folks to agree or disagree, you have your voting buttons where you can agree or disagree. If we can just get folks to actually set their status with this now, Calvin and I and folks are jumping right in, so if you can just note your agreement, it looks like we're getting agreements.

Carlton is typing, so I'm assuming we're going to hear from him. Waudu, you've indicated you're agreement in the chat. It looks like we have consensus for this, I see no disagreements. I think we can move on to recommendation four and for your decisions reached, Jean-Baptiste, we can add recommendation three to the list. [AUDIO BREAK]

Have we totally lost Drew?

JEAN-BAPTISTE DEROULEZ:

It seems so, Laureen, and Drew is sending me some input as well and he just shared text on recommendations one and two. I'm just looking at what changes are there exactly. I will share that in the chat.

LAUREEN KAPIN:

Okay. [AUDIO BREAK 0:33:06 – 0:35:02].

Okay. We now have -- the reason you couldn't hear anything is I was waiting for Jean-Baptiste's comments in the chat. I wanted to make sure we all have this. Jean-Baptiste, can you just walk us through this?

JEAN-BAPTISTE DEROULEZ: Just one second, he also sent an updated version. I'll just try to put that up on screen, it might be easier for everyone.

LAUREEN KAPIN: Yeah, I think it would. So there's no way we can call into Drew? He doesn't have a phone --

JEAN-BAPTISTE DEROULEZ: Yeah, apparently a really poor connection.

LAUREEN KAPIN: Okay. Just so folks don't think that they've lost the audio; we're just taking a little pause here so that Jean-Baptiste can get this on the screen for us to look at. [AUDIO BREAK]

I think it's very hard to consume such a lengthily statement in the chat. Let's see what we can get up on screen. [AUDIO BREAK]

I'm wondering if it's possible just to -- cause I assume Jamie did a red line, I'm wondering if it's possible to -- Calvin, yes, what Jean-Baptiste is trying to get on screen... [AUDIO BREAK]

Carlton, I'm going to ask you to save your comment regarding recommendation four just when we get to that. I don't want to lose the comment you made, so I'm going to ask you to raise it when we're getting to recommendation four. Right now what Jean-Baptiste is trying to do for us is to get Jamie's refinements of recommendations one and two on the screen. [AUDIO BREAK]

JEAN-BAPTISTE DEROULEZ: Okay, so Drew asked to share the modified version of recommendations one and two with the group. Those are taking into account Jamie's slight modifications and this is more in line with the multi-stakeholder model. The beginning part of the text is new, that's what he says. So we would need consensus on that. [AUDIO BREAK]

LAUREEN KAPIN: Is there a way for us to see the changes, Jean-Baptiste?

JEAN-BAPTISTE DEROULEZ: Not at the version sent, I'm afraid. I'm very sorry, he just sent it now.

LAUREEN KAPIN: No, I'm not blaming or finding faults.

JEAN-BAPTISTE DEROULEZ: No, I know. I would like for things to go a bit smoother on this call.

LAUREEN KAPIN: You are not alone. Is there a way to get the text any bigger just so people can read it more easily?

JEAN-BAPTISTE DEROULEZ: Yup. [AUDIO BREAK]

LAUREEN KAPIN: It's very hard to figure out where these changes are. So we don't have the email that Jamie had sent with these changes? He's usually very good about doing red lines.

JEAN-BAPTISTE DEROULEZ: Let me have a look. Can you hear me?

LAUREEN KAPIN: Yeah, I do. Are you in communication with Drew on the side?

JEAN-BAPTISTE DEROULEZ: I was, but I didn't receive anything for the last six minutes.

LAUREEN KAPIN: Okay. [AUDIO BREAK]

JEAN-BAPTISTE DEROULEZ: The last email I have received from Jamie which he sent [inaudible] well was on 21st September, I can put that version on screen if you wish.

LAUREEN KAPIN: Is that the version we're talking about?

JEAN-BAPTISTE DEROULEZ: I think Drew based himself on this version, the recommendations one and two. If you need to have the redline document that Jamie sent to Drew and I have the one you just saw now from Drew which was sent a few minutes ago, with new text for recommendations one and two.

LAUREEN KAPIN: I just think we have a lack of clarity here and I'm a little --

JEAN-BAPTISTE DEROULEZ: Exactly.

LAUREEN KAPIN: I think we're going to have to hold off on this and communicate this to Drew after this meeting and send around what I understand are likely to be minor revisions to one and two. The procedure I'm going to propose is that we're going to assume consensus is still reached on these recommendations unless people respond to the group via email over the next 48 hours. I think we should deal -- and I'm looking at Jordyn -- I think we should deal with this type of edit across all recommendations later before the final report but not now, agree with Jordyn on the normalization of the recommendation. And with Laureen on pushing this, okay.

Let's push this -- the plan is we will send around an email with what I understand are minor revisions; if folks have concerns with that they should respond to the group within -- we're on Wednesday, so respond to the group by Friday, otherwise I'm assuming that we are maintaining our consensus on one and two. Because I want people to be able to see

the precise text that's being proposed and I don't see the point of having a discussion about it when we're a little uncertain about what that is.

That said, I know you're all relieved, Calvin is with the phew. That said, let's go on to recommendation four, sorry for these hiccups. Maybe, Jean-Baptiste, you can put it up.

JEAN-BAPTISTE DEROULEZ: Yeah, I will share my screen again, one second.

LAUREEN KAPIN: Thank you. Again, I appreciate everyone's patients as we deal with various technical difficulties. Jonathan is pointing out recommendation four is the really controversial one, the one that we've been spending time on. Let's move straight to that, that's going to be the best use of our time, rather than fiddle faddling with recommendations one and two.

My Adobe connection is temporarily lost, so I will not be able to see what's on the screen for a minute. Folks are going to have to bear with me unless Jonathan's connection is current.

JONATHAN ZUCK: You want me to read it out or something?

LAUREEN KAPIN:

Yeah, if your connection is current. Okay, I'm back. Let me remind folks where we are with recommendation four. We've had a lot of discussion -- now it's lost again. I'll continue going on but maybe you can deal with the reading, just cause I know not everyone's in the Adobe Connect. We've had a lot of discussion back and forth on this idea of an alternative dispute resolution mechanism that would be a compliment to the existing procedures already in place to deal with abuse.

David has championed this and it's informed by his experiences with the alternative mechanisms in place regarding intellectual property rights dispute. What I'd like to do is -- David's not here to answer questions, I believe he's on a flight, but I'd like to get a sense of whether we have comments about this rather than questions. Comments about this to get a sense of whether we have consensus about this and how to move forward. I'll open it up for comments. I think I'm going to have to refresh my Adobe Connect, so maybe, Jonathan, if you can --

JONATHAN ZUCK:

I'll read it out. Jordyn has put in the chat that he remains opposed on principle to recommendation four, just to put that marker out there. But as it currently reads, DNS Abuse -- sorry go ahead. Do you have more to say, Lauren?

LAUREEN KAPIN:

Nope.

JONATHAN ZUCK:

A DNS Abuse Dispute Resolution Policy or DADRP to be consider by the community to deal with registry operators and registrars that are identified as having excessive levels of abuse, [inaudible] to define e.g. over 10% of their domain names are black listed domains. Such registry operators or registrars should in the first instance be required to A) explain to ICANN compliance why this is; B) commit to clean up that abuse within a certain period of time and/or adopt stricter registration policies within a certain period of time, failing which DADRP can be brought should ICANN not take any action themselves.

The rationale is DNS Abuse commissioned by CCRT identified extremely high rates of abuse associated with specific registries. It's important to have a mechanism to deal with this abuse and in particular if it is prevalent in certain registries is missing. Abusive behavior needs to be eradicated from the DNS. Two is the ICANN Board registry stakeholders group, the registrars stakeholder group, the generic name supporting organization subject of procedures PDP working group and the SSR2 Review Team. [Inaudible] level is high, consensus as yet undermanned, but we know we don't have Jordyn.

ICANN Compliance is one roots to dealing with this high level of DNS Abuse enforcing existing and any amendments to register accreditation agreement to prevent systematic uses to specific registrars for technical DNS Abuse as per recommendation two. However, in addition to a specific DADPR should be considered as it could also be very helpful in dealing with such DNS Abuse but it could also serve as a significant deterrent to help prevent or minimize such high levels of DNS Abuse.

I can't scroll. Jean-Baptiste, if you could scroll, I can finish reading it. Registry operators or registrars that are identified as having excessive levels of abuse, to be defined for example where a registry operator is over 10% of their domain names blacklisted by one or more heterogeneous black lists, StopBadware, STP, APWG, Spamhaus, Secure Domain Foundation, Trivial, and clean n mix.

A DADRP should be set out specific penalties, examples from the DNS Abuse study of new gTLD's is over 10% of their domain names black listed. According to Spamhaus for example are science, stream, study, download, click, top, GVN, trade, review and accountant. Each of these registries will be obliged to review their second level domain names being used for DNS Abuse and explain why this is, it might be cleaning these up within a certain timeframe and adopt stricter registration policies if necessary to ensure there exists relevant and contractual terms to handle effectively the such registrations.

If the domain names at issue are not cleanup satisfactory and in the event ICANN does not take immediate action, then a DADRP maybe brought by an affected party. The process should involve a written complaint to the registry. Time allotted for response from the registry and enroll hearing. Final decision should be issued by an expert panel which could recommend one or more enforcement mechanisms to be agreed upon by the community.

For purposes of this recommendation, a registrar acting under the control of a registry operator would be covered by the DADRP so it is important to ensure that registry operators shall include entities directly or indirectly controlled by or under [inaudible] control of the registry

operator, whether by ownership or control of voting securities by contract or otherwise where control means the possession directly or indirectly of the power to direct or cause the direction of the management – I think a lawyer wrote this – and policies of an entity, whether by ownership or control, voting securities by contract or otherwise.

The gist of it is, if you have greater than 10% and obviously that number is to be defined, of blacklisted domains, then you need to explain why that is, clean it up, adopt stricter registration policies or suffer some penalty from contract compliance and if they don't take action then this PRDP could be brought in to service as a third party review, which is what Jordyn is opposed to on principle.

LAUREEN KAPIN:

Thank you very much, Jonathan. That's the proposal on the table and I know Jordyn's hand is up. I'm going to turn it over to him and Carlton has questions about existing policies for tools to respond to DNS Abuse and certainly there are contract requirements that prohibit a range of DNS Abuse. I think your question two relates to the first but yes, there are also remedies to that.

I think the big question is whether they're sufficient and David's perspective appears to be based on the DNS Abuse Study is that, no they're not sufficient because the data shows from that study that there's still high concentrations of abuse in certain registrars and registries, and that if the system were working properly you wouldn't

see that, therefore he is proposing an adjunct mechanism to address that.

With that, I will turn the talking orange as we say in my house, the talking stick over to Jordyn and then Calvin. Go ahead, Jordyn.

JORDYN BUCHANAN: Thanks, Lauren.

LAUREEN KAPIN: You're very, very low.

JORDYN BUCHANAN: I hate Adobe Connect.

JONATHAN ZUCK: She means faint, she's not making any other kind of comment, Jordyn.

LAUREEN KAPIN: Thanks for that clarification, Jonathan.

JORDYN BUCHANAN: How about this, any better?

LAUREEN KAPIN: Not really.

JORDYN BUCHANAN: I don't understand this. This microphone works fine in literally every application except for Adobe Connect. This is the worst system in the world ICANN. Let me try to connect by phone really quick; if Calvin wants to go first.

LAUREEN KAPIN: Okay. Calvin, go ahead.

JONATHAN ZUCK: Jordyn, can you go in and adjust your microphone volume? Sorry.

CALVIN BROWNE: So I'll just talk while Jordyn's trying to get his stuff organized. I've been [inaudible] with this and I went and looked at two things. I looked at the 2013 RA, so the registrar accreditation agreement and I looked at the base of registry agreements, and in terms of the registry agreement there's nothing in that agreement whatsoever. Well, I lied, there is something about having an abuse concept, but I couldn't find a [inaudible] obligation in a registry to act in the case of abuse.

In terms of the registrar accreditation agreement there is an obligation to do something there. This is probably designed to be because the registry is supposed to have the registrars as planned and not the end users, they're not being involved in that thing. I have an issue with us saying with this recommendation specifically when it comes to that, again, as to how this thing is going to be implemented. I know David's

not around to defend it, but I see issues with that and I'm not sure how to circumvent those things.

LAUREEN KAPIN:

So you have some concerns and is it -- I just want to get a little more details, a sense of your concerns, Calvin. Is it that some of this is focused on registry operators and not just registrars? I want to make sure I understand your concern.

CALVIN BROWNE:

I have a concern of the whole thing, so the whole thing makes me [inaudible]. I tried to break things down and I noticed specifically there is no provision in the registry agreement to go this route. The only thing in the registry agreement was really an obligation to have an abuse contact, so there's absolutely no [inaudible]. That actually could be a whole process of changing that registry agreement; that's virtually what we're saying as this is done.

In terms of the registrars, there's sections 3.18, the registrars [inaudible] to investigate reports of abuse, so there's actually obligations on them to do so. This whole thing, implementing the current framework is going to be difficult as far as I can tell.

LAUREEN KAPIN:

Thank you, Calvin. Carlton is pointing out and accurately, he's pointing to specification 11 in the registry agreement which does impose obligations on the registries to conduct security checks and take appropriate actions to respond to DNS Abuse issues, so there are

actually some obligations but I think you have some general discomfort with this is what I'm hearing and also a recognition that certainly this a new procedure that's being suggested for discussion and if it were actually going to be implemented it would need to be done likely through changes to the existing standard contract.

I think that's a fair summary, but Carlton is pointing out in the chat that there are anti-abuse obligations for registries as well as registrars in spec 11; in fact there've been a lot of procedure and discussions now by the registries to figure out what their obligations are to respond to abuse and there's now a whole protocol on that's been discussed regarding this issue. Carlton is saying what we have basically is a failure to enforce and I think that is exactly what is fuelling David's recommendation. That said, I still [inaudible] your discomfort with this. Did we get Jordyn back? Do we have Jordyn back now? Cause I believe it's your turn.

JORDYN BUCHANAN: Can you hear me better now?

LAUREEN KAPIN: Yes, much better.

JORDYN BUCHANAN: Yeah, the phone works fine just the Adobe Connect acts on the exact same mic. I think I have three objections to this. The first is that the premise behind the recommendation I think is pretty flawed in that in recommendations number two and three we say, "Oh there actually is

no mechanism for ICANN to deal with systemic abuse.” And then we turn around in this recommendation and say, “Hey look, ICANN’s not dealing with systemic abuse therefore we need this alternative resolution policy to deal with the fact that ICANN is not doing it.” So there’s just like a fundamental tension between the notion of what we’re recommending in recommendation two and to a certain extent three and with number four.

My second problem roughly mirrors what Calvin said which is this basically takes a obligation that doesn’t exist on registries today; there is some obligations in spec 11 but they are about abuse reporting and response to specific complaints not about -- the obligations of registrars are much more robust than on registries with regards to dealing with abuse and that’s appropriate because the registry doesn’t have any relationship with the registrar.

If for example there’s a lot of malware in a particular TLD, I think what we see constantly in the DNS Abuse Report and other reporting, for example .com has the most malware distribution because it tends to be compromised domains, and on compromised domains it’s probably not the right thing to do to take the domain down cause that prevents the owner from even being able to do anything about it. The registry can’t really do anything; the registry doesn’t even know who the registrant is in many cases because of proxy registrations. The registrar is the only person or the only entity with a direct relationship with the registrar -- and I got disconnected. Hello? Does anyone hear me?

LAUREEN KAPIN:

We still here you, Jordyn, you're not disconnected.

JORDYN BUCHANAN:

Awesome. I think this sort of imagines that the registry is the right place to be dealing with this sort of abuse even though the contractual framework and the reality of the situation make it clear that it's not, so it's unclear why we would try to have a procedure that revolves around registries when it's a really ineffective place to try to deal with abuse.

Finally, I think this is just in general, the new language makes it really clear what this is and says, "First of all you report this to ICANN and if you don't like what ICANN does then you file your own dispute resolution process instead because ICANN get's the information, they decide whether or not it's a contractual violation; if ICANN decides it's not a contractual violation and it decides not to pursue action against the registry, then some other random third party get's to pursue their own course of action."

That's just super I think -- we could do this with any -- it's not just DNS Abuse, we could choose any part of the contract and say, "First of all report it to ICANN and if you don't like it...", you know, we could do this with Whois, we could do this with transfer policy, we can take any part of the contract and say, "Okay, first complain to ICANN and if you don't like the results of ICANN, go ahead and have this third party arbitration process to resolve instead."

And that's just fundamentally, like A) undermines ICANN's roll and, B) creates a huge amount of unpredictability for registry and registrar operators because they'll have basically two sets of rules. They first of

all have to figure out what ICANN compliance expects them to do and then they have to also figure out whatever random third parties are going to be annoyed by and potentially bring these actions. I think we have really good recommendations in two and I think to a lesser extent three, to like help ICANN deal with systematic abuse.

We should let that happen. We should look for ways to make ICANN compliance be an effective enforcer of its contract and make sure the contract can address the issues but we shouldn't give random third parties the right to bring enforcement actions themselves because I think that undermines the creditability of ICANN and the contractual framework of the multi-stakeholder process.

LAUREEN KAPIN:

Thanks, Jordyn. Jordyn was quite eloquent and ardent about this, so I will let his words stand rather than trying to summarize them again. I will point out in the chat there's been a continuing discussion where Carlton has pointed out that there is a whole interlocking system of contractual obligations that run downstream from the registries which require registrars to have provisions in their contracts that prohibit specified forms of DNS Abuse and then the ICANN compliance is there to ensure that this whole interlocking system of contracts which flow from the registries to registrars to registrants, registrars then prohibit registrants from certain types of DNS Abuse also, that there is this system in place and it's an enforcement problem.

I'm just trying to summarize what Carlton said for those not in the chat. Calvin, I don't know if that's an old hand or you had further remarks?

Oh, it's down. Other questions and comments? I think it's fair to say that certainly both Calvin and Jordyn have raised concerns here. Carlton, can I just get a sense from you specifically, I know you've been talking about ways the existing contracts are not necessarily being rigorously enforced or sufficiently rigorously enforced, but are you in favor or opposed to this recommendation? Carlton is typing, I'm waiting for an answer from Carlton.

The other thing that occurred to me is that the recommendation itself, stepping apart from the details which are very specific, the recommendation itself is really a recommendation to have the community consider this as an idea, and in that regard, separate and apart from the details which are very specific, in that regard in my opinion, this is just me, it doesn't strike me as quite as controversial as it strikes Jordyn.

To me this is just a recommendation that says, "Consider having the community think about this and decide whether it's something that should be pursued." In that regard it's not a really strenuous recommendation, it's a "maybe we should give this some thought" recommendation.

Carlton is not opposed because it conveys a methodology to consider how to impose enforcement. Calvin's pointing out, "Nothing stops the community from doing this anyways;" fair.

Other thoughts and comments? Certainly we have some strong opposition to this and we have folks who are more comfortable with it. The other thing I'm wondering -- I'm sorry, go ahead, Jonathan.

JONATHAN ZUCK: I should have raised my hand. I'm just saying it's possible the specter of this recommendation will help clear the path for recommendations two and three.

LAUREEN KAPIN: I'm not sure what you mean.

JONATHAN ZUCK: I think what this recommendation and recommendations two and three help to communicate is that there appears to be a systematic problem, and as Jordyn puts it, a deficiency in our systems for handling these problems holistically. I believe Jordyn is representative of the contracted parties' response to this. I'm not sure that it's going to go particularly far beyond our recommendation, but it could be that the inclusion of it will help be an incentive to embrace the other two recommendations. I'm not sure, but I think that we need to probably take Jordyn's concerns and assume that they are the concerns of the contracted parties that would be affected by this.

LAUREEN KAPIN: Well, given the remarks -- and again, I keep losing connectivity so if you're raising your hand I can't see you and you'll need to intervene verbally. Given the remarks, I don't think we have consensus on this. I think what would be useful to figure out is if we were to include this, how we would characterize its inclusion. I think what also would be

helpful is to circulate this via email and ask people explicitly whether they oppose it or are in favor of it.

We don't have the whole review team on this call, but I think it's important if this is included that we give a clear indication of whether the majority of the review is in favor of it but there were significant reservations by certain members or whether this is a minority view.

That to me is the question we need to answer for our prior discussions, and maybe this is a point of clarification, Jonathan, when we talked about consensus it was almost entirely -- I think everything else has had unanimous consensus. If we were to include this, I think it would be something less than that clearly.

JONATHAN ZUCK:

That's right, and we didn't define consensus as unanimous at the outset so we could suggest we had consensus, but we should definitely make clear if we went forward with this that we didn't, we weren't unanimous on it for sure.

LAUREEN KAPIN:

Then what I would suggest as an action item is in this email that is being sent with recommendations one and two, to include recommendation four and ask people formally, and again, I have no -- I keep getting disconnected from the Adobe chat -- it's to circulate this and ask people to signify by email whether they support this recommendation or not so that we know how to characterize it.

I'm open to other thoughts on how to handle this but that's how it strikes me. And I'm totally out of Adobe Connect now so if anyone wants to respond it needs to be verbally, I can't see the chat because I'm in the in-between place in Adobe Connect, I have a black screen. Jonathan, did you have any other thoughts about the best way to proceed here?

JONATHAN ZUCK:

That sounds right to me. Again, it's tough that when we have David we don't have Jordyn, and when we have Jordyn we don't have David to participate in this conversation. I think Jordyn raises a very interesting point about registries and it may be that we need to try to orient this more towards registrars. I think that we've got to put this to the team for consensus and I think Jordyn has acknowledged that as well and knows that it might happen despite his objections but we just need to make sure we document them and explain his objections.

LAUREEN KAPIN:

Then what we'll do as an action item is send this recommendation around and ask people to respond whether they are in favor or against this so that this can be put into proper context in the next version of the draft report. That leaves you with some time, Jordyn, to discuss the parking paper.

JORDYN BUCHANAN:

Sure, I don't think we've had any revisions or discussion about the parking paper so I don't know what there is to talk about. We had a

brief discussion on the leadership on Monday about updating data in general which I think I'll also do as part of the parking paper, but I think we'll do that as a data revision task coming up just to bring probably some footnotes in to let people know that when there's been revisions to data that's not currently reflected in the text in the final stage of the report. We're probably going to stick with the December 26th, 2016 data as a baseline because that way we can make direct comparisons between data sets throughout the report.

LAUREEN KAPIN: Right, that makes sense. As I recall we had reached consensus on the parking paper already and this is just whether there's going to be any additional data added; is that fair to say?

JONATHAN ZUCK: You're right, an update to the data.

JORDYN BUCHANAN: I think we may add some footnotes here and there just with saying like, "This number has changed since," but I think it makes sense to actually do that as we're preparing the final report so it's the most recent data instead of trying to do little incremental bits along the way.

LAUREEN KAPIN: Then is it ready to go or are there still adjustments?

JORDYN BUCHAHAH: I think it's ready to go unless people have thoughts that they haven't voiced up until this point.

LAUREEN KAPIN: Yeah, I'm kind of loathed to reopen things we've already gotten consensus on. This is just more of an update. I believe from David's last email, just to inform folks, he has not received additional input on the text of the INTA paper, but there is some additional data that he is going to be putting in it, and that's his high priority. In terms of the text I don't think there are any changes for that, he's going to incorporate the comments he received from Waudo and add some references. These are just ticky tacky things, just add some source references and make sure the statistics and cross references with the WIPO information is also up to date.

He has some additional things to do, none of which should impact the substance of that. I think that is where we are with the new material for the draft report. Does anyone else have any questions or concerns about the papers we discussed today that they haven't said already? Then I'll turn it back to you, Jonathan, for any other business or any other issues that you want to discuss.

JONATHAN ZUCK: Thanks, Laureen. Does anyone have any additional issues they want to discuss? We're going to circulate this recommendation four for consensus, we're going to circulate papers for comment by Friday so please watch your emails to make sure that you see them and comment on them, or forever hold your peace as they say at weddings. Waudo.

WAUDO SIGANGA: Yes, I just want to get it straight about this recommendation four, are we agreed that recommendation four will be there and now we're just looking for [inaudible] version, or is it still out in the open whether it will be there or not?

JONATHAN ZUCK: It's still out in the open, thank you for your question, Waudo.

LAUREEN KAPIN: Waudo, can you shut your microphone?

JONATHAN ZUCK: Thanks, Waudo, for the question. It's still open, we're going to circulate it to get people to vote since we don't have a full group of people on the call, to see whether or not we have a majority of people that want to include it. So that's the very next step that will happen very shortly is some kind of online voting by the team since this is really the first recommendation on which there's been kind of stark disagreement. We're going to conduct a poll and that will determine whether we go forward with it, and if we do go forward with it, I think we're acknowledging up front that we'll have to detail the objections that were raised.

LAUREEN KAPIN: Since we do have a little time left, Calvin, I know you had raised some questions regarding the recommendation on Whois and accuracy, you maybe want to just briefly discuss that to the group since you probably can get some input now on the call.

CALVIN BROWNE: Let me just pull it up, I wasn't expecting to do that. I think that the interesting thing that I had was the objection by the noncommercial stakeholders group who kind of said that the recommendation 17 and 18 which is closely related was outside the scope of our review team.

Personally, I looked at it and I could probably go either way, so I [inaudible] between saying yes and no, and I was trying to get a feel from other people what they think about this. I'm interested in hearing ideas from other people on the team and whether they think they agree or disagree and then why.

LAUREEN KAPIN: Just to put this in context, our recommendation 17 was to gather data to assess whether a significant percentage of Whois related complaints relate to the accuracy of the identity of the registrants, differences in behavior between new and legacy gTLD's. The part that Calvin and the noncommercial stakeholders group is focusing on is just the last sentence which is, "ICANN should also identify other potential sources of Whois complaint, registrars, registries, IPS's, etc., and attempt to obtain anatomized data from these sources."

Although there's a comment that's just beyond the scope of the review team, I don't think that's accurate at all, some of the safeguards in the contract specifically dealt with Whois, so it's squarely within our agreement. That's my response to the comment. Also this is a "ICANN should attempt", there is no contractual obligation to supply this data and it just says we've seen it maybe that these other sources are not inclined to give it, that this is just a "should" attempt.

My view is that this doesn't require changing, but we acknowledge that these attempts may not bare fruits but still it's a way to identify other potential sources of data; and it's not restrictive, it's just by way of examples, these may be places but there would be other places they could look as well. In fact, they're already doing that with their data gathering initiatives.

CALVIN BROWNE:

I agree on the second but that kind of goes to ICANN's objection. I see Carlton and yourself are both saying that you believe it's fully within our remit and Carlton says because it's directly referenced in the safeguards.

LAUREEN KAPIN:

Right. If anyone has views on that, you can get them to Calvin. I'm not convinced that this needs to be changed. I think we just need to be realistic in how we think that this may be carried out. Maybe one minor change would be to make sure that we have an "including but not limited to" in that recommendation 17 so that it's clear that we are not

contemplating, that these would be the only sources i.e. registrars and registries etc. that could be the source of these complaints.

Any other thoughts? Jonathan, I'll turn it back to you to end the Plenary call.

JONATHAN ZUCK: It's alright. Thanks, Lauren. [Inaudible] that conversation, I think we are done for the day. Thanks everyone for your participation.

LAUREEN KAPIN: Thanks everyone for their patience with our technical difficulties as we're entering the final round.

[END OF TRANSCRIPTION]