

DREW BAGLEY:

We'll just wait until the document's being shared, and then we can go over it. Thanks, Jean-Baptiste. Okay, as you can see, for recommendation three, that's where we already had consensus based on last week's call. The additional sentence that David – a sentence that would be added to the very end of that first paragraph, the paragraph that begins, "Further set a relationship between specific registry operator's registrar's DNS abuse." At the very end of that paragraph, this sentence that I'm pasting in the chat would be added. It reads, "We also recommend that ICANN put in place an action plan to respond to the study in future ongoing data collection."

And so, the rationale behind this would be that, if we are asking ICANN to generate reports from all this data, then that data, once problems are identified, presumably, then there should be some sort of action plan put in place to actually address them, rather than there being reports to say that this is interesting. David, I don't know if you want to explain that a little further.

DAVID TAYLOR:

I do, yes, thanks. Considering I sent that four minutes ago and we didn't speak about that whatsoever, you've amazingly captured it and got it perfect. Yes, that's exactly the point. If we're doing all this studying and we're getting it published like we've done this time, which is obviously a very considerable amount of effort, and the recommendation three is one where we're saying we want to commission this on an ongoing basis, we don't want this to just be commissioned and people look at it

---

*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.*

---

and say, “That’s very nice,” and nothing’s done about it and there’s no response or anything.

I thought that we do need that additional path of recommendation, where we’re recommending ICANN to actually put in place some sort of action plan, whatever that may be – an audit, a remediation, something like that – and how they’re going to take that further. I mean, the other comment in recommendation four, which could equally apply to recommendation three, do we suggest that there’s something put into the RAA and the RA, if there’s a failure to do something, or to take appropriate action?

I’ve kind of covered that in recommendation four, but I know Jordan was saying we shouldn’t have that and we should just leave the recommendation three. But I’ve left that recommendation four for now, which is why I’ve kept this simple. That’s exactly as you said, it’s just to make sure that this can’t just be published and ignored.

DREW BAGLEY:

The only thought I had about that, in terms of anticipating criticism would be that we want to ensure that whatever sort of action plan we’re directing ICANN to come up with, that’s one done within the lines of the multi-stakeholder process, so that that action plan would be, as you were saying, negotiate new agreements that include certain types of provisions to prevent these types of problems, or perhaps it would be some other – the development of some other safeguards.

But any of that would involve different parts of the community. Are you happy leaving that language as you have it, neutral to that, where that’s

---

just implied? Or do you think we need something to be so that people realize we're not trying to have ICANN Org circumvent the multi-stakeholder process?

DAVID TAYLOR:

I don't know. Whatever you think, whatever other people think as well. I think both have advantages and disadvantages, and I'd probably tend to perhaps put in something and say that – again, who are we addressing this to? It's the ICANN board registry stakeholder's group, registrar stakeholders, GNSO, and the subsequent procedure and SSR. That's who we're addressing it to, so to me, I think it's clear that we're not asking the ICANN org to do this. But perhaps we should put in something there, suggesting that there should be something in the applicable contracts, going forward, or this would have an effect, based on the data, that this could be considered and should be considered in association with the appropriate contracts, something like that.

DREW BAGLEY:

Okay, thanks. Waudo, I see your hand up.

WAUDO SIGANGA:

Yes. I guess I should be clear about this additional sentence at the end. To me, it seems that the [INAUDIBLE 0:06:06] initially is that information is going to be collected but nothing is going to be done to use that information. I just wanted to know what's the work of ICANN compliance? Is that ICANN going to do some action, so that we are forced to add an extra sentence to this last one?

DREW BAGLEY:

Waudu, I really think the answer to that depends on what happens with recommendations one and two in their adoption, because I think the way to think about recommendation three on its own and the necessity for some sort of action language, as it is right now with compliance, we get compliance reports. We also now already have this DAR system. It's not necessarily that any of those things can be used in an actionable way.

When I say compliance reports, I mean this aggregate data about compliance issues, because everything is complaint-driven, of course, with regards to compliance. Then with the DAR reporting as it is right now, there really isn't anything to empower ICANN when they do identify some sort of widespread systemic problem. That's really what this is getting at, is saying, "Hey, if you are able to do this terrific analysis, highlight all of these things, then you have to come up with an action plan to remediate what you're discovering."

I do think that that is necessary. I don't know that that would be implied, that there would be action otherwise. We're not being too prescriptive with our action, with this language David has suggested. We're just saying then there needs to be an actual action plan created in response. Does that answer your question?

WAUDO SIGANGA:

Okay, thank you.

---

DREW BAGLEY: David?

DAVID TAYLOR: Thanks, Drew. Yes, I think your word was quite good there. You mentioned remediation, and that should perhaps be in there, “We also recommend that ICANN put in place an action and remediation plan, to respond to this study.” It’s an extra step. It’s not just an action plan. The whole point is to remedy the situation, so perhaps that’s the only addition I’d put in there, and just keep it broad, apart from that.

DREW BAGLEY: Yes, I think that’s a good idea. Thank you, a few turns ago, for explaining too, your thoughts on the fact that we already were directing this to different bodies within ICANN, and therefore in the recommendation language, it would likely be fine just to say ICANN broadly. That is a good idea, to add the remediation term. I’m supportive of that.

In regard to this call, since we have so few attendees, we should first determine if we have consensus within this sub-subgroup of this additional language, and then if so, we will need to email this out and see if there’s broader consensus within the review team. But does anybody else have any other language to add to that? I’m going to repaste it with what David just suggested. Let me just do that. There, I just took a stab at this sentence. How does that read, David? Is there anything you’d like to modify with that? You come from the country that actually invented English.

---

DAVID TAYLOR:                                So funny, well done. No, I like that. Good.

DREW BAGLEY:                                Okay, great. Then on this sentence pasted in the chat, everybody who is able to use the voting buttons, please use the green voting buttons to indicate if you support this, and use the red ones to indicate if you don't. If you're unable to vote because you've called in or something, then if you could speak up or type in the chat or do something to indicate consensus? It looks like we have Jonathan and Gao, could you guys indicate whether or not you support it? Jonathan does, so we're waiting on Gao and Carlos.

CARLOS RAUL GUTIERREZ:                I'm on the phone. I support. I can read it, but I can't use the chat.

DREW BAGLEY:                                That's funny, because your icon is a minus sign.

CARLOS RAUL GUTIERREZ:                I'm on the phone, and the phone screen is too small to push any button in Adobe.

DREW BAGLEY:                                No problem. Great, thank you. Would you like me to read you the sentence?

---

CARLOS RAUL GUTIERREZ:      Actually, I can read it. I have the Adobe on the phone, but I can't use the buttons. I can read it, thank you very much, and I followed the discussion. Thank you.

DREW BAGLEY:                      Okay, great. Thank you, Carlos. Then, Gao, do you agree with the added language or do you disagree? I'm going to guess maybe the silence is due to technical issues. I see you have typed in the chat before, so Gao, if you could please type in the chat to indicate if you support this additional language or not, that would be great. It seems like, in this group, we have consensus on this additional sentence being added. We can go ahead and circulate this sentence with the broader team, via email.

Then, recommendation three, it appears we still don't have consensus on it, and that will be included in the version that goes out for public comment. Then also, recommendation four, the crossroad is first of all that there is not unanimous consensus, whereas for our other three recommendations with the caveat that we have that additional language for recommendation three, we do have unanimous consensus. We now need to decide whether or not we would like to release a recommendation for public comment in which we acknowledge there is not consensus within the team, but where we still put that out there.

For Jordan, I think I'm comfortable enough with understanding his position and could speak a bit about it. With Jordan, it's not a matter of changing the language. There really isn't anything that we could do to this recommendation to convince him to support it, so long as it is the

---

proposal of a private rate of action and of a new dispute resolution policy. Jordan's logic was that recommendations one, two, and three would already address the issues that recommendation four attempts to address.

The counterargument to that – and I did miss last week's call, but the counterarguments presented before, of course, were that this is another tool, so that there would be another means for a victim to actually stop systemic abuse. This is something where we are not defining exactly how this dispute resolution policy would work, but instead proposing the creation of one. Within this group, does anybody have an opinion on whether or not we should go and present a recommendation for which we do not have unanimous consent, making it clear that we don't, or is there anyone that has strong views that we instead should not release this recommendation for a public comment period, because we are not unanimous?

WAUDO SIGANGA:

Yes Drew, I think I would like to be conscious with Jordan, to leave this out. I have to be conscious. The reason being is that I really can't say at this time that I really understand these issues in connection with what Jordan has said, and then the document by David Taylor today. I'm a little bit confused about some things. I know Jordan said that he didn't like the organization because it's trying to put some relationship between parties that actually don't have a relationship. For example, between registries and registrants. That's one of the things that I picked out that makes me think that maybe I should not support this recommendation. Then I know David has given some counter



---

arguments against what Jordan has said, but the long and short of it is that to me, this organization is not black and white for me to actually say that I support it. Because of that, I think I would say that I wouldn't go ahead with it.

DREW BAGLEY:

Thanks, Waudu. A quick follow-up, assuming you don't support it and Jordan doesn't support it, and I do not know where the rest of the group is now. If the rest of the group is still supportive of it, are you opposed to this recommendation going out for public comment if it states that there wasn't consensus in the groups, that we're very transparent about that but still putting it out there?

WAUDO SIGANGA:

I would say just leave it out. David has said that it is actually kind of a position of what recommendations one and two are saying. So, I don't know how you're going to do it. If Jordan thinks that it should not be there at all, and I would say that I don't have enough reason to say that it should be there, then I don't know [INAUDIBLE 0:17:42]. But I'm not opposing it actually being there, because it's something that is 100% clear to me. I would not support something that is not very clear to me.

DREW BAGLEY:

Okay, thank you. Does anybody else have an opinion on two different things? There's the recommendation itself, and whether or not you still agree with us making this recommendation, or disagree with it, assuming we have majority consensus but not unanimous consensus,

---

you support us putting this in the public comment period to elicit feedback, even though we wouldn't have unanimous consensus. David?

DAVID TAYLOR:

Thanks, Drew, and thanks, Waudu. Yes, I appreciate having time to fully consider what I've popped in the email, just before the call. Obviously I support putting it in, and I think when we looked at this on the call before last – and I'm pretty sure we suggested we should do a hands-up and see where the majority lie. It was pretty clear to me – and I don't know if Jean-Baptiste noted it down, but it certainly had a majority for putting it in, with some reservations, notably from Jordan and now potentially from Waudu.

To me, it certainly seems it's something that the majority thinks is worth putting in there. I'd go along with that. I don't think it makes our report any the weaker, if we've got a recommendation where we clearly state that there is not entire, total consensus on that, where there is a majority in favor of putting this recommendation out to the community. I've put at the end of my email today, stressing there that this is a proposal for the community to look into, to weigh the pros and cons and look at the precedents. It's not something that should be abused, of course.

I think it's worthwhile having it on the table, in parallel to the discussion on ICANN compliance. Again, I just think it's certainly worth being out there, where we're addressing it to. If the GNSO comes back and throws it away, et cetera, then that's fine. That's their decision. But we've done our job in saying it's something that should be considered. The point of

---

it being overlapping one and two, I don't get that, because it really is creating a separate mechanism. It's a separate option. I can't see, honestly, the actual overlap there. It may be going after the same thing, using a different means, which it is.

Whether or not we think that's a good idea or not, but it's not prescribing it, not insisting on it. We're saying it needs to be looked at, and the point I made there in my note is again, I don't really understand the idea of the unpredictability this causes, and where it ends. It just creates some sort of precedent for this to happen in all these other areas. We're not creating a precedent, we're suggesting something discussed in the first place, and the precedent exists in the PDDRP. That's been around now for several years, and hasn't been abused and hasn't been used.

That, to me, is really the point. That's where I come down and the more I look at this, the more I'm of the opinion we don't have a TLD of 50 percent of the registrations being trademarked, abusive registrations. Thank goodness there isn't, because imagine what the IPC community would be saying about that. I'm convinced the PDDRP would have been used immediately by a large number of entities, if that was the case. It's a good thing. Whether the PDDRP itself is something that's helping prevent that, no one will ever know.

We're now talking to registry operators and asking did we decide to not allow this or do this or put this policy in place, because we were scared of the PDDRP? I very much doubt it, but I'm sure it's on the agenda and on the radar of certain people, and if it was an appropriate point to be used or an appropriate mechanism to be used, somebody would use it.

---

---

That's why I look at this one as something which, if it's discussed and if it's gone through and it's put in place with the appropriate checks and balances, it will probably never be used. That's a good thing, in DNS abuse and TLDs, when we get the data and DNS abuse studies over the next five years. We'll see that there's no TLD with more than five percent abuse, then that's a good thing. I can't see how it's a bad thing, to be honest, to have that as a possibility.

DAVE: Thank you David. Yes, for something like this, where obviously – Hello? Was that Waudu? Go ahead.

WAUDO SIGANGA: Yes, before you continue, just briefly, I hope [INAUDIBLE 0:22:49] keeps coming. [INAUDIBLE 0:22:55] that this recommendation is trying to put some relationships between parties that don't have a relationship. For example, between registries and registrants. What is the reaction to that?

DREW BAGLEY: Waudu, I think you need to mute your microphone.

WAUDO SIGANGA: Did my question come through?

---

DREW BAGLEY: Yes, your question is about what does David think about Jordan's point, about the fact that this proposal would create a relationship between registries and registrants, where there previously wasn't one, correct?

WAUDO SIGANGA: Yes, I think what Jordan said was that the recommendation is trying to create some kind of a link between parties that don't have a relationship, like the registries and the registrants. For example, where the registrants can bring some actual against registries. They don't really have contractual relationships. I don't know if David can say anything about that. My line keeps going on and off, so I don't know if my question is going through.

DAVID TAYLOR: Yes, thanks, Waudu. Heard that, no problem. I think I'll really just point to the fact that we have precedents that exist. It's the PDDRP, which there, you've got a trademark owner who is in a contractual relationship with ICANN, who is able to bring complaints. That does exist, and it hasn't been abused. Arguably, it's been effective, because the abuse is low. I'm just looking really to mirror that here and see what that can do to lower this extensive abuse in certain TLDs, which frankly, I find incredible, to see that level of abuse in a TLD. I do think that needs to be called out, and hence this mechanism is another way of dealing with it.

Just to add to what I'm saying, I saw Fabro's comment there, with a plus one for this. He's not on the call, but he's following. He's highlighted that point which I made, which is actually taking on board what Jordan was saying, about this is for ICANN compliance and we should be

concentrating on ICANN compliance. I do agree with that, and again, I think maybe that's where we can tie in with what we were saying there. I don't think this will make Jordan agree with recommendation four, but I'm saying that if we're putting it in there, we could perhaps talk and refine this a little bit.

I think the consensus is we should put it before the public, but perhaps we should put something in addition in there, that we're pointing to this audit or remediation plan, which ICANN, on the compliance side, should be doing, obliging this level of abuse to come down, and then if it doesn't come down, that constitutes a breach of the RAARA. I think that is a very good way of going about this. It's kind of in parallel. If that comes about and the community says, "We're okay with that," then let the PADRP fall on its head.

But if the community doesn't want that or there's a great pullback on that, which often seems to me there is, you end up with a scenario where ICANN compliance doesn't have the means to deal with the issue, and time just ticks on. It's either-or, but not let's drop one and then let's take up the other one and end up with nothing.

DREW BAGLEY:

Thanks, David. I think the strength in recommendation four is that oftentimes people complain about ICANN compliance, what their role is or isn't, what they can and can't do, what they should and shouldn't do. This is a proposal to offer at least another avenue for dealing with DNS abuse. I think that that, assuming we still have majority consensus, really makes it worthwhile to put out for public comment, even if after

---

---

considering the public comments and after we perhaps even have further discussions on our own, even if it doesn't ultimately end up in the final report in this form, perhaps the public comment period will help morph it into something else.

Or, perhaps it would go away and we would decide it wasn't worthwhile or whatnot. But it's at least a way to explore and have a dialogue with the public about another avenue that's outside of ICANN compliance for addressing that. Does anybody else have any other feedback? Okay, seeing that, and that I think our next two action items with regards to today's discussion are to circulate the additional sentence for recommendation three and see if there's consensus to adding the sentence to the recommendation that already has consensus.

Then, for recommendation four, we should circulate an email with recommendation four as it is, unless David, you have any last-minute addition. But basically, where we ask two things with regard to recommendation four. The first is do you support adopting this recommendation? Is there consensus, essentially? Then, regardless of the answer to question one, do you support putting this recommendation before the public, even without unanimous consensus, because we don't have enough people on this call, I think, to achieve consensus on either of those topics. But I think those are our two action items with regard to this chapter.

Otherwise, this chapter is ready to go out, and obviously I'm sure we will improve the chapter even more, as we become even more of perhaps other data related to abuse or safeguards or something, before the final paper. But I think otherwise, this chapter is good to go for

---

public comment period, after we finish these two action items for recommendations two, three, and four. David?

DAVID TAYLOR:

No, I fully agree with the way you've put that. The only thing was whether or not we want to – it's not going to make it more palatable for Jordan or anybody, but it's just do we want to also include something in recommendation four, when we're talking about it's a second option after ICANN compliance have done whatever they're going to do? Should we mention in there that a failure of the contracted party to clean up that abuse should constitute a breach of the RAA or the RA?

Do we want to put that in? That's a little bit tougher and obliging ICANN compliance. If, at the end of the day, to my mind, the PADRP falls by the wayside, because the general consensus is it's not a good idea in the public comment, brings it down and at least pegged that something like that should be in place and held to be a breach of the RAARA. I've just opened that up to the community and what people think. Sorry, everyone on this call, which is the community.

DREW BAGLEY:

This is the entire community. I think it's really good for us to add any language such as that, that helps clarify the relationship between what we're recommendation for recommendations one and two and three, with recommendation four. So far as we can actually sequence through that process where we perhaps, if I'm understanding your proposal correctly, we would still say the ICANN compliance, first and foremost, maintains its role for enforcing the contracts. But if, after that process



---

has actually been undertaken by ICANN compliance, whether it relates to a complaint or whether it relates to the systemic abuse that we're now going to empower them to go after, we're saying after ICANN compliance has made a determination, then an agreed party could still use this process.

What would that outcome have to be? After ICANN compliance does do something, are you then suggesting that an affected party could still use the PDDRP regardless, or only if ICANN compliance has not made a determination, or only if ICANN compliance says there was no problem and there's objective data to show there is a problem? What are your thoughts with how that would work?

DAVID TAYLOR:

I think that's where we'd probably go too far for what our recommendation is, because those are to be very in-depth discussions. Again, if I look at the PDDRP and its life, and the amount of discussion, A, we have on it in the IRT with ICANN input, back in 2009, then it went to a further community set by the GNSO council, the STI, with everybody delving into it. That created another version, and then finally another version. All these points were exactly what is thrashed out, so I think that needs to be thrashed out. I'd be less descriptive, because we're not saying this is the way it should be done.

It really is saying this is another option, but to my point more on this, we're trying to beef up the first option or the first action by ICANN compliance, and by doing so and stressing the fact that a failure to clean up would amount to a breach of the RAA or the RA. If that's something

---

that's in place, I think the dispute mechanism is then less attractive, because you've got a breach of the agreement and you do roll into the whole ICANN compliance with teeth.

I think, to my mind, this PADRP is sandwiched – I'd imagine the DNS abuse study paper comes out on the first of January. Then there's another one on the 6<sup>th</sup> of July, and then there's another one on the 1<sup>st</sup> of January, and all of these points to TLD or a bunch of TLDs that are very clearly abusive and there's a lot of DNS abuse in there. ICANN's compliance is, for whatever reason, has not taken action, and we're seeing the same level of abuse.

We're seeing that same level of abuse over an entire year. I think an interested party should then be able to use this PADRP to try and stop it, because you can't let that thing carry on over such a long period of time. That's all, but if there's a compliance element and someone's worried about the RAA and the RA, then hopefully that will make them clean it up downsite quicker, so it sticks heavier, which is all we want. Then ICANN doesn't actually have to do anything, and all we have to do is file PADRP.

DREW BAGLEY: Would an interested party be essentially a cybercrime victim, or what do you think? In that situation, what would the interested party be?

DAVID TAYLOR: Somebody who's been abused, who's suffered abuse, who's already filed a complaint with law enforcement, or law enforcement perhaps

---

who have identified something going on in a particular registry, and they've filed the complaint with ICANN and ICANN have just gone and ticked some boxes and not necessarily done anything. Any of the above. I think that's – we need to make sure they've got standing. They've got to have some sort of sufferance to be able to file a complaint. It's not just open for Drew Bagley and David Taylor to come in on shining horses, filing all these complaints.

But having said that, if it's something like \$5,000 or \$10,000 a pop, we're not going to be filing that many, either. It's the same with the PDDRP. That's \$5,000 to file, and it's not been any abusive filing by brand owners. I'm quite sure Louis Vuitton can afford \$5,000 to file one of these and go after a registry, if they think something's happening bad enough. That's really where I'm going on it.

DREW BAGLEY:

Okay, thanks. Then, would you like to take a stab at this today and go ahead and modify this with that language, which helps make clear the relationship between ICANN compliance with these new powers and then this process and where that would come into play? That way, we can circulate it and ask about what is the consensus on this, and question two, if there's majority consensus but not unanimous consensus, can we still support putting this out for public comment?

DAVID TAYLOR:

Yes. I've got a call after this, but in an hour and a half, I'll be off that call and I'll sign to it quickly, and send it around.

---

DREW BAGLEY: Great, thank you. Jonathan, is there any other business you wanted to us to do today? That concludes what I wanted to accomplish with regards to the DNS abuse check.

JONATHAN ZUCK: I think that's probably it. I think that was going to be our big item for today, is to try and go through that and get, if possible, majority consensus on recommendation four. I think that's it. Jean-Baptiste is reminding me that we really need to create a finalized version of the paper and run it by everybody one more time, so I'll do that before the end of the week, so that we can vote on it, on email. We'll look for David's new draft of this paper, and get consensus on that as well. Does anyone else have anything?

DREW BAGLEY: Then I'll just quickly state, logistically, David, if you could go ahead and send me your recommendation four language, then what I'll go ahead and do is I'll put that in the draft of the paper, and I'll also already put the recommendation addition in a draft. That way, we can just send out the paper in one email, asking for people to agree or disagree with the addition of recommendation three, and then the questions related to recommendation four. That way, instead of having separate emails, we'll just do one.

DAVID TAYLOR: I'll do that, no problem.

---

JONATHAN ZUCK: Alright, folks. As you can see in the chat, we have a one-day face to face in Abu Dhabi, not a two-day face to face. In case anybody was unclear on that, that one day is actually a Friday, because ICANN starts on a Saturday in Abu Dhabi, which is [INAUDIBLE 0:40:15] on Monday. Don't be confused by the difference in days, and it's one day instead of two days for the face to face. Thank you, and watch your emails. David Taylor's raised his hand again.

DAVID TAYLOR: Sorry, Jonathan. Thank you very much for acknowledging me. I feel very blessed today. Sorry, just following up on that, just on the Friday, do we know roughly what other sessions we'll be doing during the week and do we know when they might be going to, just for travel purposes? I know last time, ICANN arranged our flights and had us flying out on the Tuesday, with some sessions on the Wednesday. I managed to stay over an extra night. I'm just making plans, so I was figuring if ICANN's view is we check out on – I think it's a Monday night. I'm not sure what it was. Is that okay, or do we need to be adding in another day? Do we know what things are planned for the Monday, Tuesday, and Wednesday, and the Sunday obviously? Maybe we don't know yet.

JONATHAN ZUCK: I think we don't have answers yet. I don't think we know yet. I have to get some requests out to the leadership about individual briefings. But Jean-Baptiste, I know we have an engagement session that's inside of that window. But I don't know if there's anything else on the schedule.

---

JEAN-BAPTISTE DEROULEZ: That's correct. That's the engagement session scheduled on Sunday.

JONATHAN ZUCK: Okay.

JEAN-BAPTISTE DEROULEZ: Maybe we can discuss on the next call, the face to face agenda, considering it'll be two weeks away from the face to face meeting.

JONATHAN ZUCK: That makes sense.

DREW BAGLEY: Speaking of which, I need to follow up with ICANN travel. I haven't heard back from them yet. Jonathan, I will not be able to make the face to face, but we'll be there for the engagement session, so I'll participate remotely in the face to face.

JONATHAN ZUCK: Okay, thank you. Anyone else have any other business? Alright, folks. Thank you very much. Watch your inboxes.

DREW BAGLEY: Thanks, everyone.

---

**[END OF TRANSCRIPTION]**