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BRENDA BREWER: Thank you all, this is Brenda speaking and the recording has started, welcome to the RDS WHOIS 2 subgroup for WHOIS 1 Rec 4: Compliance. The call is on May 17th 2018 at 15:00 UTC, and attending the call today is Susan Kawaguchi, Alan Greenberg, Carlton Samuels, and from ICANN Organization we have Jean-Baptiste, Alice, Brenda, and Lisa and Steve. I would like to remind you that the call is being recorded, please state your name before speaking and you may begin the call Susan. Thank you.

SUSAN KAWAGUCHI: Thank you, and once again this will be quick. They are going to be knocking on the door, throwing me out of this hotel room at 11:30, not a very flexible hotel. So if we could scroll to the next, the first... yeah. So I, the first slide I just wanted to remind everybody about the face-to-face agreement and as long as... if anybody had any issues with that and though I didn't see any on the email thread, so I am going to assume that everybody agrees with that. If we can go to the next slide, this is one of the... the first question, these are additional questions that we add, we develop during the face-to-face and these are the answers. You all received these in the document from compliance but I had some questions and concerns about these and I wanted to get your input. They didn't seem to really answer this question about, or maybe they're not tracking, they don't know whether or not there is a registrant email address or the registrant information, the postal address and telephone numbers in the grandfather domain, so just as a reminder the 2009 RAA did not require that information in the WHOIS record, and although

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anecdotally, I've never seen those fields blank but we ask the question whether or not... how often that information is absent from the grandfather domains and to me they didn't really answer that question. I don't know if this is a problem or not, and I was wanting to get your opinion on that. Anybody have any thoughts?

ALAN GREENBERG:

It's Alan. I certainly have thoughts, and I think it's something that we need to ask again and if we can't get an answer then it goes into the report that we can't get an answer. Because, if indeed the information is nominally optional, then we really need to know to what extent is this an issue or to what extent is it... you know. I've got to believe it's an issue otherwise the registrars would not have made a fuss about it. If everyone is compliant, then it would be fine to say, we don't have to grandfather it. That implies to me that there is an issue, but I think we need definitive information.

SUSAN KAWAGUCHI:

OK. I'll continue to pursue that. The other avenue I was going down with this, is just asking the negotiating team on the 2013 RAA why these were allowed, and I haven't received that answer. I'm going to use GDPR as the excuse again, so I am going to continue to pursue that line of investigation, also trying to get some insight on when they investigated. Carlton please go ahead.

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CARLTON SAMUELS: Yes. Couple of things. When we ask that question of the compliance team, and if you look at the raw data, what they promised to do is to do a sort of null fields. Typically the reporting does not sort null fields, it says you're looking for syntax and operability, and if the field is not there it is assumed that the syntax is wrong and it's reported as a syntax problem. This is a couple of years going now, we agreed that at least we thought it was agreed that they would make a separate reporting on null fields, but Maggie would probably remember this from the discussion a couple of years ago and I think that's what needs to be done. I certainly would agree that if we can't tell a null field, in this instance, we probably should flag it as of concern.

SUSAN KAWAGUCHI: OK, you're saying if they get a sort of null fields, in the WHOIS accuracy reporting ARS, sort of test domains, the group of domains that they are looking at, if they can go back and do a sort for null, that they might be able to find out there, if information is missing in those fields?

CARLTON SAMUELS: Yes.

SUSAN KAWAGUCHI: OK. I will ask that. Maggie is who I asked, but we just haven't had time to, about the negotiations... you know, we never have enough time to cover that topic, because we're usually talking about GDPR. Lisa, please go ahead.

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LISA PHIFER: Thanks, so [inaudible] are looking for both a combination of null fields and then the subset of that, that are grandfathered domain names.

SUSAN KAWAGUCHI: You're right. OK.

BRENDA BREWER: Excuse me this is Brenda, I just wanted to let you know Thomas has joined the call.

SUSAN KAWAGUCHI: Welcome Thomas. Thomas just for your information we are just talking about the fact that we didn't seem to get an answer from compliance on the grandfathered domains, and how many are, of those grandfathered domains, are actually missing the registrant postal address, telephone number, and email address, because that's not required by the 2009 RAA. I'll pursue that, I'll draft a few other more in detailed questions and then send that out to the subgroup for your edit. Then, if we can move onto the next slide, unless somebody has a comment on this? Jean-Baptiste can you move? OK.

LISA PHIFER: Actually Susan, this is Lisa. Re-reading what compliance answered, the second part of their answer was that contractual compliances role on this was limited to looking at the guidance related to RAA obligations, and I wonder if what they're telling you is that you need to ask GDD, if

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there is any information that can be extracted from the data that was collected, that compliance isn't already looking at.

SUSAN KAWAGUCHI: OK. That's a good point. I will, when we ask, and I know this is going to be a little late for our draft report but...

CARLTON SAMUELS: Can I say something?

SUSAN KAWAGUCHI: Sure.

CARLTON SAMUELS: I am sorry but that is a little bit of a slight of hand. It is not compliance responsibility just to provide guidance, it is also to ensure compliance with the requirements. So, if they think guidance is just about guidance with syntax and operability, no. If it's missing, they are obliged in operation and to say to the registrar these things are missing and you should put them in. That's when the second part of the requirement comes into play. What happened on the ARS system when you look to see if they have abided by the rules of the regulation.

SUSAN KAWAGUCHI: OK. I am making notes on that.

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UNKNOWN SPEAKER: Carlton, the wording says that their participation in the ARS program is limited to, not in general.

CARLTON SAMUELS: Right, and I am saying yes. But, regardless of the ARS... the ARS program is an audit, it is for auditability in my view. Is an audit tool, but if compliance finds by other means that the requirements of the RAA are not abided to, then it is their duty to seek compliance from registrants.

UNKNOWN SPEAKER: Certainly.

SUSAN KAWAGUCHI: Alright, I will make a note of that too. In the interest of time, let's go onto the next one. I was concerned about this and I think I may, if we go down a little to the next slide, maybe I have some text in... so actually at this point the third bullet, and sorry for all the errors, I copied and pasted. ICANN contractual compliance recently began reporting on closure reasons. Actually that report, that metric, is pretty interesting. What I did find in there was that there's a high percentage of inaccuracy complaints that are reported on domains that, and they weren't clear on this so it's something that I think we should ask, that the domain names were either already suspended, or were suspended for inaccuracy. My concern with this, and I've been known to file many inaccuracy complaints on domain registrations that are suspended, is because usually that information, in my case as least when I was working at Facebook. Was Facebook information, therefore it was

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inaccurate, for that registrant, and the WHOIS record still exist. So, there needs to be another way of, to me, an inaccurate WHOIS record should not be allowed to exist out there for as long as the domain name has been renewed, even in a suspended state, because that information is bad information usually, and the registrant, even if the domain name is suspended, and usually it's suspended for bad behavior or something, or a lack of response. That information should be changed to something else in my opinion. I was wondering if I could get your input on that, I mean am I off base, do you I'm going down a hole that we shouldn't go down, or what are your viewpoints?

CARLTON SAMUELS:

This is Carlton again, Susan, no you are not going down a hole. It is surprising how these things occur. The problem with the reporting is that they give you a code, and the code does not have enough granularity, so what they have to do is look back at the coding so that we have more granularity in what the code means. This is something that I think Maggie and them, actually acknowledge more than two or three years ago, that this is something that they should be doing in the next... and we were told at the time when we made the point, that this was something that was going to be fixed in the updated algorithm for the reporting system. To me, this is feedback that they would have known about and they acknowledge. It has to do with the granularity in the coding system, that they promised to have fixed with an updated algorithm. It has just not arrived yet. You are quite right.

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ALAN GREENBERG: It's Alan. I am not quite sure I follow you Carlton. My recollection is, that the real problem was that they allowed domains to be suspended, or put on hold, I don't remember the exact term, and we then found out that there were times when the registrar simply unlocked it and left the information the same. They claimed that they are now checking against those to make sure that they don't get unlocked unless the information is changed.

CARLTON SAMUELS: Correct.

ALAN GREENBERG: So, Susan are you worried that the domain may be unlocked and therefore would have active bad information again? Or are you looking at it just from a philosophical view that even if it's locked it shouldn't be allowed to have bad information?

SUSAN KAWAGUCHI: Both. Oftentimes that bad information is not that registrants information, it's basically identity theft so then you have a suspended domain name, which is a negative perception, oh a domain name has been suspended owned by a registrant in the registrant field that is not accurate, and, so it sort of... in a company's view that it's like, oh somebody can look at that and go, most people would understand but a lot wouldn't. No Facebook didn't really do this bad behavior and have a suspended domain, it was fake information, right? Inaccurate information. To me it should be changed, and some registrars do this,



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they'll update it to their own registration information, but indicate that it was a suspended domain or something in the registrant field. I think that's a good practice, so maybe we need to recommend a good practice in suspended domains.

ALAN GREENBERG:

That was really going to be my question, what do we recommend? Now I could easily say that we recommend that a policy be adopted, because it either has to be negotiated with the registrars and agreed to or adopted as a PDP, as a policy that you can only suspend a domain for bad WHOIS information for one month, some arbitrary time, then it must be deleted or the information must be changed to the registrars information, or something. Clearly, we can't recommend a policy, we can recommend that ICANN go through whatever process necessary to make sure it is a policy, or best practice if we are willing to accept that, I am not particularly willing to accept that. Bad actors still have to accept best practices. I think this is one of these things that if we can't negotiate it, the GNSO, I think, is going to have to figure out how to do really short PDPs, where everyone agrees it's a good thing, let's do it. I think we should push that direction in our report. So, if we find something that needs policy change that I don't think we should shy away from recommending it.

CARLTON SAMUELS:

I totally agree with you Alan, I totally agree with you on that. If you have the data to back that up, is where [inaudible] comes along. The domain is suspended, but it's inaccurate WHOIS, then they need to flag that

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separately. If the domain is made live again, without the updated WHOIS and to make is accurate, then there's another way to flag that. You do that by making the codes more granular. The two things come hand in hand, you need to data to represent the report and the recommendation that you are making which I fully support.

ALAN GREENBERG:

OK. We're down to less than 4 minutes and Susan has to vacate the room. If she is on her phone she can keep on talking from the hallway, I guess, but Susan what do you want to do going forward right now.

SUSAN KAWAGUCHI:

Let's keep going until somebody, you know, at least another 5-10 minutes. Lisa, you had a point you wanted to make?

LISA PHIFER:

I did and I typed it in chat. My take away from what the three of you have said, is that you might be looking at recommending either a policy or best practice be developed in order to flag when, in WHOIS itself, when a domain name has been suspended for inaccurate data.

SUSAN KAWAGUCHI:

Yeah that is true to, as that actually would... if that was flagged and people could read it and go this is inaccurate data, it is suspended. I still think the data needs to go away.

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ALAN GREENBERG: I think marking both. The code has to be more specific and they can't let it sit there forever.

UNKNOWN SPEAKER: Deciding exactly how that would be addressed, as Alan pointed out, might be policy development, [inaudible].

ALAN GREENBERG: Remember the board has the ability to initiate a PDP.

SUSAN KAWAGUCHI: Yeah. I also liked the idea that we discussed, short PDPs for specific issues that we have identified. Let's really quick go to the next... I can't remember I had those two points in mind and I don't remember. I thought it was good that they provided, they gave us a list of information that would be helpful. We sort of discussed this, number 4, in Brussels, but to me their answer about doing any analysis of WHOIS inaccuracy trends is, you know, they answered it but I don't think they do much. That was my take away on their response. So, I think that and that sort of something we agreed upon, I think in Brussels, is that we should make a recommendation that, especially in light of GDPR and not having as much public information displayed then, or information displayed to the public, excuse me, that we should make a recommendation they're proactive in monitoring and seeing trends, and just looking, identifying patterns. What was your thoughts on that?

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ALAN GREENBERG: I have no argument with that.

SUSAN KAWAGUCHI: OK.

CARLTON SAMUELS: None at all.

ALAN GREENBERG: I think they need to do pattern recognition on virtually everything that are compliance issue.

CARLTON SAMUELS: I agree totally, but I will also say, a lot of the data that they need to do pattern recognition is available to them. What they have to do is restructure algorithms to show in a pattern, for example, if you look at the requirement for the inaccuracy, the fields that are listed there, the ones that would cause more problem is the reported fields. If you look at who is doing the reporting, and you probably have a little more added to it, for example, if a spamhaus would do the reporting, right now it is very difficult to tell it was spamhaus who did the reporting. But if you extend the database with just more granularity, in some of the fields of the reporting, you would even have better capability to do the pattern matching that I think can be done.

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SUSAN KAWAGUCHI: OK. I took notes on that. Also, I was surprised on the bulk WHOIS, because I sort of had a vague idea of a bulk WHOIS reports are permitted, but according to their response only 10 people are vetted and approved for using the bulk WHOIS, and only three reported last year. So I think that needs to be, [inaudible] with the GDPR, how can you report inaccurate WHOIS if you can't see it, but I think we should, I'm going to look into that a little bit more and the process to be vetted, who gets to do this and I think they should publicize this more. I did get a knock on the door, I'm ignoring now but one other really quick thing was on the [inaudible] reporting and information, I think I copied the CCT review recommendation and I was hoping... yeah thank you so much Jean-Baptiste... that maybe you Carlton could help draft, if we wanted sort of pile on this one or draft something different for a recommendation for our work, based on this, and specify that it's only related to the WHOIS, but I thought maybe because you are more familiar with the [inaudible] information that you could give me some ideas on what to be included in that recommendation.

CARLTON SAMUELS: Yes Susan, I will look and revert. At the minute we spent a lot of time Drew, myself, and Lauren, in looking at this [inaudible] initiative. I can't think of anything at the moment but I will have to look at hours in context and see if there is anything that we might add. Thank you.

SUSAN KAWAGUCHI: Thank you very much for that help. OK, I will put notes together from this call and send out... I am also working on updating our draft report. I

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will send that out as soon as I have it. Thank you so much for your input and unfortunately I do have to go, get thrown out here. So thanks all.

ALAN GREENBERG: Thank you Susan. Jean-Baptiste and Alice, can you stay on the call for a moment after we stop the recording.

CARLTON SAMUELS: Do you want me to stay Alan?

ALAN GREENBERG: You can stay or not, it's not secret I just need to talk to them.

CARLTON SAMUELS: OK.

**[END OF TRANSCRIPTION]**