
UNIDENTIFIED FEMALE: Welcome to our subteam call #44. Any updates to anyone's statement of interest? Okay, hearing none, David has the floor for recommendation B. David, do you know if Drew is going to be joining us?

DAVID TAYLOR: I don't know.

UNIDENTIFIED FEMALE: He may be traveling. Okay. Well, in any event, I'll turn the floor over to you.

DAVID TAYLOR: Okay. Can you hear me still, everybody?

UNIDENTIFIED FEMALE: Yes.

DAVID TAYLOR: Okay. I was kind of losing Lauren there. I wasn't sure if it was my connection. Jean-Baptiste, can you put up the draft that circulated earlier today? Share that if you can. There it is. Wonderful.

This is what I circulated a little bit earlier. I fully expect you might not have read it. You certainly [inaudible] had a look at the case study I proposed. So, that's background meetings [inaudible] look at in more

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detail. And if you have, I'm very impressed. Lauren might well have done that already, I guess.

LAUREEN KAPIN:

I did. I did!

DAVID TAYLOR:

Ah, there you go. I put in the comments on the right. I think you've all seen this version previously, but not with my comments. So, I can run through. I've got eleven comments, effectively. On the page one there, you can just see. That was one for Drew, really. [inaudible] got it as a capital letter which was defined. I think that was just a typo. So, we can ignore that.

You go to page two, page three. I'm just scrolling down in my own version here. Page four, this is a suggested amendment to the general DNS abuse part, which is something [inaudible]. Have I got scrolling rights here? Do I need to scroll? I'm on an iPad, so I don't know how easy I can scroll. There we go. I think I'm scrolling. Otherwise, someone else is doing it for me. There we go.

With regards to the fifth safeguard, which is discussed here – and again, I need to run through this with Drew as well. This isn't [inaudible] in any way. This is just me putting in some thoughts for Drew and this group. On the fifth safeguard about the thick WHOIS, where we've got new gTLD operators requiring or required to create and maintain thick WHOIS. Then ICANN compliance is monitoring or ICANN Org is monitoring adherence to the thick WHOIS requirements on an active

basis. We've got the issue, as we all know, with GDPR and what's going on there. This was a suggested edition just because we haven't got any mention of it in this, and [inaudible] for a safeguard on WHOIS to be put in there and not have a mention seemed to be missing something. So, we can play it out with the wording and happy to take any comments and amendments on that. This is just to get something in.

So, I suggested the CCT Review Team notes with concern that the availability of public WHOIS, and indeed the very existence of thick WHOIS, as per this fifth [inaudible] safeguard [inaudible] situation post 25th May with the implementation of the GDPR.

The current change to WHOIS access policy applying globally, respective of where the registrants or registrars are located or whether they have any connection on access with European Union is likely to have a significant impact on the level of DNS abuse that bad actors are able to carry out, then, if there is activity unidentified. That was my suggestion. I don't know whether we want to have a little chat about that now or just take it away and think about it and see whether we want to reword that or not have anything in at all. It just seems to be missing for me.

Anybody want to comment? Laureen, what do you think? You've had a look at it, so you probably have got a comment.

LAUREEN KAPIN:

I think it's good to identify ... I'm getting an echo. Let me try again. That's better. I think it's good to identify this issue. We'll probably likely want to tweak the language a little bit and that's something I'll want to think on. But, I agree it would be ignoring a big elephant in the room not

to identify the fact that the current implementation by ICANN via the temporary specification does drastically limit the availability of public WHOIS and I think that's something that should be flagged.

So, I'll take a look at the language and I'll send you some suggested edits. I would encourage everyone to do the same because this is a topic that I think is on a lot of people's minds these days, so we want to characterize it accurately and highlight the concerns that we have. I'll pass the baton, however.

JAMIE HEDLUND: David, this is Jamie. May I get in the queue?

DAVID TAYLOR: I think you're next. I can't see a queue on my iPad, so I'm guessing you are.

JAMIE HEDLUND: Okay. Which document is this? This is one that you sent the other day on 219?

DAVID TAYLOR: This is the one I sent earlier today, about four hours ago. This is the DNS abuse section, which I've been looking at with Drew, and this is my edits to the draft which I had. So, there's literally two or three edits on the main text and then I go into recommendation D, which is where most of them are. It's what I sent earlier today.

JAMIE HEDLUND: Okay. I'll look at it as well. Identifying the issue appropriately I think would be helpful distinguishing between what the GDPR requires and what then the temporary spec, being clear about that. Alright.

DAVID TAYLOR: Thank you. And I am good ... Yeah, I distinctly kept away from the temporary spec because obviously it's being amended and new things appearing all the time, so I've tried to sort of just really kind of concentrate it on the impact if we can't identify bad actors, and obviously if there's access models, etc., then you can in certain ways and you go into the details. But, yeah, absolutely happy to take any amendments on that. That would be good. Okay, thank you. We'll move on, then.

JAMIE HEDLUND: Okay, thank you.

DAVID TAYLOR: Thanks, Jamie. Thanks. I'm going down now onto ... I'm trying to see where my next modification is. There we go. So, I did recommendation D, so I'm going to page 14. On recommendation D, is that it?

Here, what I've tried to do is cover when this would kick in, the DADRP. The idea is giving ICANN the power to take down abusive domain names. So, this is our discussion we've had Jamie, as well, on this. It's wording I want to get right, which is why I'm quite happy to discuss this.

I haven't been through this with Drew on these amendments to it. I'm very happy to let you take this away and see what you think of these.

So, it's making the comment there, as you see, the highlight of the RAA issues and the need for this, calling it a community empowerment tool. Somehow these words sometimes just appear in one's mind. But, to enable ICANN compliance to deal with registry operators or registrars that allow accepted levels of domain name abuse.

So, this DADRP would be envisaged as a community empowerment tool for combating abuse, to be set up and implemented within 12 months of the date of the CCTRT final report. Then, in brackets there, obviously we need to define what an excessive level is, 1% or 50% are very different. 10% is what I threw in six months ago as a suggested level, but actually don't really think it's for us to necessarily define what that level should be [inaudible] domain names.

Putting in there, failure to comply will result in a DADRP being available to any [inaudible] injured by the abuse in question. Again, this is something which comes in after ICANN compliance, so they have to submit an [explanation] to ICANN compliance for the high rates of DNS abuse. They then have to commit to remedying it or cleaning it up previously, but remedying that abuse within a certain time period and/or incorporating proactive anti-abuse measures. We suggested previously adopting stricter registration policies. [inaudible] and Drew dropped out. But, that was in a certain time period, and basically failing to do that means the DADRP would become available and be something which we could use or could be used.

I'll go to the next page on the rationale. Is that down here? Yes, I can see it on this page. It's on this page still. Here, they're putting in a [inaudible] which is basically based on the first part of our DNS abuse section. So, it goes back to the [inaudible] additions, [inaudible] additions. If ICANN compliance can't do anything, for whatever reason, it's important or critical to have a mechanism to deal with this sort of abuse. And it goes back to the situation prior to the approval of the new gTLD program when ICANN invited feedback from the cybersecurity community on DNS abuse and the risks posts from the [inaudible] DNS space.

One of the specific areas of concern was how do we ensure that bad actors do not run registries? This recommendation is a failsafe of bad actor registries and registrars are identified and ICANN compliance may not be, for whatever reason, in a position to deal with the abuse concentrated in those registries or registrars. [inaudible] put in when the community looks at this recommendation, we should flag that resellers and their roles – again, this is just covering, because we've got resellers issues which is out there. But, their roles in any concentrated abuse that a registry or rather should also be considered. Once the DADRP is implemented, suitable clauses should be in place and their respective contracts where resellers can be terminated by the registrar concerned that the other source of the abusive domain registrations.

Then, the next bit there is, moreover, the recent changes – again, this is just highlighting back to the GDPR that we've got ... It changes things, the lack of WHOIS availability as we see it. So, these recent changes cause [inaudible] reaction by brand owners and law enforcement, which I think is certainly true, and the previous ability to effectively self-help

by identifying the culprit behind malicious behavior may no longer be available, or is at the very least, significantly hindered by a lack of public WHOIS and is further on the line for the need for such a mechanism.

Then, there I've got the need for such community empowerment to at least demonstrate in the case studies [inaudible] annex X which is one I also circulated. So, if you want, we can look at that. I don't know if it's worth going to the next bit. There's very little else. That's the meat of it. Then, you've got this annex X which I [inaudible] people to have a little look at at their leisure because it's quite complicated. Jamie, you know about this annex X. This is the [inaudible] round one, which we've spoke about. I've got authorization from the client to use that if we wish, so it's more something—

UNIDENTIFIED MALE: David?

DAVID TAYLOR: Yes?

UNIDENTIFIED FEMALE: Before we jump into the annex and the case studies, could we just take a pause to see if there are any reactions to the edits you've already made? Because, to me, the case study and the annex is a natural place to pause for a moment.

DAVID TAYLOR: Agree fully. Actually, I wasn't intending to go through the case study because there's so much to read. I think it's something for us to read later and come back to, to go through it. It's a bit detailed to try and go through it on this call, I think. I'm quite happy to look at the [inaudible].

UNIDENTIFIED FEMALE: Okay. Jamie's hand is up, so let's hear from Jamie.

JAMIE HEDLUND: Thanks, David. You obviously put a lot of work into this since the previous version or at least the last version I saw. I still have ... Just to clarify, I will abstain on taking the position on this since it goes directly to the compliance department and creation of something else that would be an alternative to going to compliance with a complaint.

But, I will tell you this, and I think this might be a concern that others in the community and the board may have, which is what problem is this solving? You say a number of times that there may be ... [inaudible] situations which compliance for whatever reason can't do anything. It might be helpful to explain – and maybe that's in the case study, which I haven't read recently. What would be the reasons for compliance not being able to deal with something?

But, more importantly, would this body have any more authority to resolve a complaint than ICANN compliance? In other words, my understanding is the rules are what the rules are. The addition of another body doesn't – shouldn't – in an ideal world result in any different outcome than would happen if compliance applies rules as

they're supposed to. So, it would be helpful to understand better what ... To sort of identify, candidly, what the issue is, the problem is, that the establishment of this additional layer would fall. Thanks.

DAVID TAYLOR:

Yeah. Thanks, Jamie. Absolutely. I completely get where you're coming from. I think that's where the annex A or the case study is really trying to show an example of the situation which can occur. This is, effectively, it's trying to deal with the DNS abuse where you see the DNS abuse, you identify the domain name, then you manage to get it shut down at the registry level when it's a ccTLD. You contact the registry, they shut it down. It then moves to somewhere else. You shut it down. It moves to somewhere else. You shut it down. There's a large cost to that, and luckily, in some cases, you've got a client who's happy to pay for it. In many cases, the client [inaudible] and say, "This is what we need to do." They just look at you in complete disbelief.

But, when you then go on to the gTLDs and then you've got the issue that the registrar, the registry in question, doesn't take it down. So, you've got a direct comparison there. Well, why was it taken down? Why did the other registries think it was bad behavior? But, in this one, you can't. So, they refused to take it down, which is set out in the example. And you end up then sort of failing to get anywhere with that registrar, so then we go through the ICANN compliance route, but then the ICANN compliance case is closed for various reasons over time, so you come back and you file another complaint or you try and reopen it.

There's certainly ... I think one of the issues in the RAA, the requirements in the RAA is that the registrar is required to respond to an abuse report, so compliance in this case ... And this is one I've raised [inaudible] compliance in this case said, "Well, they did respond, so we closed it." They respond, I think it was an out of office or something saying, "Okay." There was no response to the claim of abuse and nothing was done by that registrar, so when we look at that, we think, "Okay, well, I'd love to go to a judge or a third party on this," but it would seem that the RAA doesn't, because of the requirement, is on the registrar to respond and there was a response, then that's all that compliance can do.

So, my understanding taken away from this example in question, which we then went back to sort of underline the various breaches of the RAA by that registrar whilst it was managing the domain name, it opens again and then it gets closed again. You go through the process. That's sort of example documents. It's not, I think ... Obviously, there's a reason why we didn't get the result which we wanted with compliance. It seems to be down, perhaps, to the RAA needing modification, so I'd agree with you there and we come around to the chicken and egg. If the RAA is modified, then that's great. We don't need this. And if ICANN compliance can deal with that bad registrar and knock it on their head, then no one will ever use this process. But, if the RAA isn't amended and so we sit there going through for another year or another two years with abuse levels, it just seems incumbent to me on us as a CCT Review Team to suggest something which says, okay, well, here's a mechanism which may even become a temporary. It could be the temporary DADRP whilst we're waiting for the RAA to be amended or something like that,

however long that takes, and this could be in place and then it's [inaudible] because then nobody uses it.

Coming back to that point, I'd sort of argue it's very similar to the PDDRP for trademarks, which takes out the bad registry operator who allows or encourages or willfully ignores, whichever way you look at it, vast abuse of trademarks in a top-level domain that will set up, as part of the IRT when we were doing that, as a way of dealing with that registry operator. The fact of the matter is it's never been used since it was there, so I think that's a good thing. And I would fully expect this to not be used, and hopefully not be used which would actually be a sign that it's maybe done some good because if no one is using it, then it underlines the fact that the compliance is working well or you're going to have to deal with things [inaudible] comes after you've done whatever you're doing.

So, this would be one way I would look at this case, to then say, "Right. At the end of that, now I really want to go and file something else, a DADRP because I can't get any further in dealing with this issue. And yourselves in compliance, you can't get any further because you are hindered by the RAA. So, that's the sum of it. Hopefully, you can have a look at that. We'll look at the case, if it's something we can include. As I say, the client on this one said they're fine with it, but we need to discuss it. We really want to get a discussion going on this group, so we can see an example of the sorts of stuff we're talking about.

UNIDENTIFIED FEMALE: David, I have a question. What happens if after going through this process the party that's the subject of the DADRP doesn't comply with the remedy imposed? It doesn't seem to provide for [inaudible] here.

DAVID TAYLOR: Yeah. I haven't [inaudible] about that because that goes into something, the drafting when we did the PDDRP, but you've got certain mechanisms which would kick in if we model it on the PDDRP, for instance, where that registrar is then ... If a registrar or registry is found to, by a panel, on the PDDRP panel, and it decides that registry is in breach, then ... I can't remember [inaudible], but this sort of a graded set of enforcement tools, which the worst and the total one is the [inaudible] suspension of the whole TLD. But, that's sort of the [inaudible] option. Before then, you've got things like no more registrations are allowed pending implementation of the decision. So, you've got various things which kick into place. So, it would be offering something similar to that.

But, I don't know whether it's our place to go into that amount of detail. We certainly can. We can try to. But, it's more for another group to look at this going forward and to find something which [inaudible] to the community because obviously there will be some discussion in the community on it.

LAUREEN KAPIN: So, I guess I'm a little unclear as to whether our recommendation ... If you can go on mute, that will take care of the echo. Okay. So, I'm unclear as to whether this recommendation is to consider implementing

this process and then the details will be the subject of implementation and/or a community working group or whether this is a recommendation for a specific process. Just procedurally, it's a little mushy to me because it's setting out something specifically, but not setting out others. So, I'm not sure if this is a recommendation to consider – I'll put that as a category. A recommendation to consider community action on creating and implementing this process or whether it is actually a recommendation for this process to come about, but leaving to implementation the nitty-gritties about enforcement.

DAVID TAYLOR:

Yeah. I'd say it's the latter. I'd say it's a recommendation for the process to come about and leaving the implementation to a community group to look at it. So, there, the rest of it is really the ideas and giving background in there. That's what I'd say it is. Yeah.

LAUREEN KAPIN:

So, if that's the case, then I think we need to headline it a little more clearly about what this is exactly because it's a little bit of a hybrid, and I think unless we're clear about that, it's going to be confusing. So, that would be one observation.

The second is I did look at your case study, for example. It struck me as very unusual that we would be contemplating case studies of actual incidents to justify a recommendation and I wasn't sure ... Since we don't do that for any other recommendation here, I wasn't sure why this was different. It actually feels odd and uncomfortable for me – and I'm not going to speak for Jamie, but it seems a little unusual to basically

take an actual example to say, “This is why we need this,” as opposed to what we already have, which is the DNS abuse study which goes into a much more – what’s the word I’m looking for? It actually goes into an analysis based on a range of data points and evidence to come up with some conclusions rather than one instance of something. It struck me oddly, so I wanted to get a little bit more of your thinking here.

DAVID TAYLOR:

Thanks, Laureen. I agree. It’s odd in the fact that we haven’t done this for the other recommendations and it’s come about. When I met with Drew at the ICANN meeting at the last ICANN meeting and we were discussing some of the issues which had been raised with the recommendation D, some of them were that there was no practical premise for needing such a DADRP. There was such a narrow set of cases that this would be punishing everybody in some ways. So, just looking at those two, there’s no practical premise. This is one of many examples which we’ve come across. Many of them we don’t go to ICANN compliance on.

I would also say that out of clients we work for, many of them [inaudible] definitely should go to ICANN compliance because I think this is what they will action and most times just won’t go because they look at ICANN in a very negative way, and they don’t spend any money and they just say it’s pointless, it’s a waste of time and it’s a waste of our money. So, I’d say 90% of clients just don’t take it any further, and certainly clients do and this is sort of the example then that when you do, you’ve got this issue. Obviously, Jamie and I, we’ve spoken and it’s something which is a difficult one. I’m trying to figure out how you crack

the egg and how you give ICANN compliance the power to deal with DNS abuse because, again, the [inaudible] we'd hear back is, "Well, this is something for the RAA," and I agree. And this is something for compliance and I agree.

But, if compliance can't deal with an example like where we have this example of the case study, that to me shows that there is a [inaudible] premise for a need for something else to be there as a mechanism of last resort, if you like. And I think there is a value in how many of the new gTLDs end up in the auction, which is the mechanism of last resort. Very, very few. And it's dealt with earlier. It's dealt with by private auctions. So, there's thousands of those scenarios. There's very, very few which will ever get to the DADRP. I'm convinced that there's very few that would ever get to the [ADRP].

But, I would say the case study is one example of search and I could probably put together another half dozen and we could probably go wider and get a load more, but that's not really the point. So, again, it was sort of ... I disagree fundamentally where somebody says there's a narrow set of cases, because if you look at some of the registries which we've identified in the DNS abuse report, and you look at the level of abuse, most people aren't complaining about it. That's the problem. Because there's no mechanism to deal with it.

So, it stays there. I'd say when we look at something like [inaudible] names and the inability to deal with something where I think there is an issue here, and the time it takes, you think what can we do and what can we recommend? That really is the idea. So, hence, the case study was there as, well, okay, we talked about it back then and I mentioned it

a couple of times on previous calls. I was saying I was trying to put together a case study. So, here's the case study. I could say we don't want the case study. [inaudible] spend my time putting together the case study because it took quite a while to get approval to bring it and to bring it together sort of thing.

But, if we don't think we need it, then we don't think we need it. I think maybe something which we talk about in some sort of a different way, but it didn't seem to show that there was a factual need and it was a very good example of that.

UNIDENTIFIED FEMALE:

I see Jamie's hand is up, but I don't want – and I'm going to pass the baton. I don't want you to misconstrue my comment because I'm not against the DADRP and certainly the only way compliance can act is through the actual provision that are in the contracts. They can only enforce what's in the contract. So, substantively, I think there is a basis that there are certain abuse that the DNS study identified as sustained and unremedied. I think these are useful recommendations.

In terms of the case study, again, it just strikes me oddly that we're basically taking one example to say, "See? This is why we need this." Even though I think the example you give is interesting and it gives an example of something that went unremedied, at least from your client's perspective. It's still just one specific example and that's why I'm getting this reaction. That's why you're hearing this reaction from me.

For me, I would say, okay, if you want to refer to an example and a footnote as an example, that's fine. But, I don't know that it's anything

more than that. It's an example. I don't think we want to use one specific thing to say that's why this is justified because I almost think that weakens our case if it goes down to one. I would rather have you talk about your half dozen examples if they're out there, just by way of illustration, but not necessarily have you go through the same it sounds like very time-consuming process to create charts, a case study format. I think you could talk to that based on your experience as an IP attorney dealing with these cases. That's my two cents, though. I'd be curious to other people's reactions.

DAVID TAYLOR:

Thanks. Very good comments, very helpful and I agree, that in many ways it's something which is ... It might not be something we want to put in the final report. Again, Jamie, if you say, "I don't want to [inaudible] that in," because the goal of it is really not wanting to make ICANN compliance look bad in any way. It's a goal, as I said at the beginning. It shows and the difficulties you have with one entity, just one entity, registering a domain name perhaps a dozen times in various ccTLDs and gTLDs and dealing with it, and if I put a cost element, it would shock you that the cost of dealing with this across it, which just shows you why it's almost an impossibility to deal with such DNS abuse.

And who deals with it? Not many people have got the ability or the funds to do anything about it, so it just remains there and it remains in the DNS and it poisons, from my point of view. So, anything we can do to say we called it out, we're suggesting things which we can do. We don't have a magic wand. And neither does ICANN compliance, frankly.

We could have Jamie say, “This is what I’d like.” I think it [inaudible] you, Jamie, if you could say, “This is how I would take down these registrars and these registries who have systemic abuse.” But not anybody else. Not a registrar which has got some domain name abuse in it. Obviously, that’s not what we’re going for.

There’s always going to be people abusing. I could do my own little domain name and [inaudible] put something bad up there. That doesn’t mean that registrar or registry is a bad actor. But, the one which is allowing a systemic use of their TLD or their registrar and we’ve identified those, to my mind, those things need dealing with, and if they’re not dealt with by compliance, then this is one way of doing it. And I agree with you. Perhaps we’ve got the example. But [inaudible] for us to look at it, and anything Jamie says, which says, yeah, this would have helped if you had done it this way, David, because that was a mistake on your part. Brilliant because we can try and do it in a different way, but I’d like to find something which is usable and cost-efficient, because again, if the cost [inaudible] this client to deal with this is ridiculous. Jamie?

JAMIE HEDLUND:

Sure. Thanks. So, for starters, DNS – I think I can speak on behalf of Org. Addressing the systemic DNS abuse is a priority and systemic DNS abuse is a problem. The kinds of things that would help us more in compliance and dealing with it more than anything are strengthening the contractual provisions or inserting contractual provisions that address the responsibilities and obligations for registries and registrars to

address DNS abuse and I think there are some recommendations further up that are really helpful in that regard.

Strengthening the contracts would help. We're not going to stop until that happens. We are continuing to pursue things in conjunction with OCTO and [DAR] and identifying the worst of the worst, and as you suggest, going after them and not after your registrar for having content that's critical [inaudible] ICANN compliance. That was a joke. So, that's for starters.

Secondly, you mentioned country code TLDs and their determination that there may be abuse. As you know, we don't have any sort of policy relationship with ccTLDs. They're sovereign. They set their own policies. So, whether or not a particular ccTLD finds something one way or another really isn't going to impact on how ICANN compliance or ICANN is going to look at something.

What we do know is that there are registries and registrars who often go beyond the contractual requirements, and for example, will cooperate with law enforcement in taking action against domain names even in some instances without a court order or a finding against the registry or registrar by ICANN. So, that kind of stuff happens and to the extent that there's voluntary cooperation by registries and registrars to go after bad guys, that's great.

You are correct that the RAA requires the registrar to have [inaudible] contact, take reports, investigate and respond. That is going to be ... Unless there are other changes to the agreement as a result of the recommendation, that's going to be the case for the dispute resolution

provider as much as it is for ICANN. Maybe sometimes they find that ICANN compliance closed it down without taking further action that was unreasonable, but there's also the possibility that they're going to go the other way and decide that ICANN took an action that was not supported by the contract.

My point is that, as Laureen said, the important thing is the contractual obligations, and to the extent that there are new ones that make it – that explicitly address DNS abuse, that is really helpful.

David, you mentioned the [PDDRP]. That's not just a process. That's also a [substantive] rule that a new gTLD registry that is effectively actively conspiring with registrants or promoting trademark abuse, they can lose their registry agreement. So, it's not just an appeal mechanism. It's a substantive obligation or prohibition. So, I don't see that that's in here. If there's an instance where ICANN compliance is not doing its job, then there are other forms of appeal. There's the ombudsman which has been effectively [inaudible] complaints officer, which has been effectively used in getting ICANN compliance to do things differently. So, that already existed, so obviously the consideration for the board. There's the ombudsman. Maybe those need to be tightened up.

Again, I'm going to abstain on this, but having another forum I don't think is going to do a whole lot in addressing the problem – the very real problem – of DNS abuse without enhancing Without either enhancing contractual obligation or coming up with some additional requirements for registries and registrars to address DNS abuse. Thanks.

DAVID TAYLOR: Thanks, Jamie. Very helpful. One question I have on that, because we certainly agree on the agreements needing to be toughened up to deal with the DNS abuse and that's why I think there is a complete eye to eye on the fact that DNS is a priority, as you say, and it's a problem and the fact that there's a problem there. So, this is just another way of trying to crack the nut, shall we say, and the need to strengthen the RAA and the requirement to deal with abuse.

Do you have an idea when we would potentially have an agreed RAA with these amended clauses in place? What sort of timeframe are we looking at?

JAMIE HEDLUND: I don't know when there would be a new RAA. The 2013 – some of the 2013 RAA agreements, and that's when it was drafted, that they were obviously executed then and after. But they're starting to expire and there is a renewal expectancy within there, so there would have to be some sort of forcing event in all likelihood to get the registrars to renegotiate.

DAVID TAYLOR: Yeah. Thanks. That really underlines the problem. I'd agree with that. We were saying there's a new RAA that's going to come out and it's going to have these clauses in and it will be in place within six months or a year. There's no need for any DADRP, in my view, or it's very unlikely there would be any need of it. My concern is one of the RAA being amended in two to three or four years' time, subject to the [inaudible] negotiation and the clauses come in similar to what was negotiated

[inaudible] and we know about the DNS abuse and we've got something in there which says you only need to reply. So, effectively, almost an out of office can be considered or applied, but you don't actually have to do anything about the abuse. Just seems to be ... We're left with a situation which we're never going to deal or be able to deal head on with the abuse. And this, to me, is a way where it will all, other means are carried through.

Again, it does, the idea of the program there or the setup is it's a staged approach, that each registry or registrar is given time to deal with it and it goes one, two, three. Then it's only, at the end of that, if they haven't done anything, it's still sitting there and you got the same issue, then somebody can come in and say rather than spending \$20,000 or \$30,000 trying to deal with this whack-a-mole, I'd like to file a complaint against this registrar. I think it would do a world of good if everybody else was a good registrar. But again, that's ... It's a different one to go around.

Just coming back to the PDDRP, again, I'd sort of underline that. We had those discussions back in 2009 with ICANN and when we were suggesting the PDDRP, it was exactly – and I remember the conversation I had and I can go through that conversation about this is something which we were thinking would be designed to help ICANN compliance. Now, ICANN compliance in 2009 was in a very different state to where we are today, but it was something saying it could help deal with that big, bad registry who's doing A, B, C. So, is that something which ICANN and compliance would like? And it was effectively, yeah, well, it would help as long as it doesn't interact with us and upset what we're doing. It's a separate thing. It's a stick. Yes, it would help. So, in my mind, this is

a similar sort of thing. It's a stick which is wielded behind the scenes and it hopefully helps everyone to stay in line, which is to say [inaudible] hasn't been used. But, we're not seeing any TLDs with 10% of the registration being trademark infringements, but we're seeing TLDs with 10% of the registrations being DNS abuse. So, therein lies the conundrum.

LAUREEN KAPIN: Thanks, David, and thanks, Jamie. Jamie, is that an old hand? Did you want to respond?

JULIE HEDLUND: No, I'm done. Thanks.

LAUREEN KAPIN: Calvin or Carlton, did you have anything to add? I'm thinking that the subteam is actually going to need to take some time to review this and then submit reactions to David in writing, particularly Drew as well. And maybe we should set a timeframe for that to happen that takes into account the ICANN meeting next week.

DAVID TAYLOR: I was just going to reply to that one as well. If we're going to Panama next week, maybe we can sit down in a little group and work through this a little bit. That would be great, for anybody who is going.

LAUREEN KAPIN: Yeah. I'm going to be there. I'm sure Drew is. But, I hear Calvin also. Calvin, go ahead.

CALVIN BROWNE: Yeah. To me, this seems like a problem that is [inaudible] and the ability to enforce it. We're really putting a Band-Aid onto that problem. That's what I see here. I think you need to [inaudible] causing the problem.

LAUREEN KAPIN: What do you see as the root cause, Calvin?

CALVIN BROWNE: Well, as I said, it's the RAA and the provisions therein and the ability to enforce them and that's what's causing David's [inaudible] to this or push for this remedy. But I still think it's a Band-Aid. We really should go through to the root cause of the problem which is the RAA having [inaudible] sensible and can be enforced and we [inaudible] around that.

LAUREEN KAPIN: Right. Thank you, Calvin. I think Jamie echoed that and so did I. In a sense, there's different tracks for this issue. One track certainly is to engage in the bottom-up policy development process that would result in contract changes, which as we know, is a laborious time-intensive and uncertain process. Nevertheless, worth pursuing.

I think David, through this recommendation, and not just David but members of the subteam as well are suggesting this method as something that can be done in the shorter term.

That said, maybe we can suggest dates for written comments to be due to David and Drew so that this can be teed up for a plenary call. My suggestion would be to have that happen the first week in July, to have comments due by July 3rd and then maybe have a plenary call on the 5th. I'm open to suggestions. Jean-Baptiste, go ahead.

JEAN-BAPTISTE DEROULEZ: Thank you, Laureen. Just wanted to react to that. The original [inaudible] was to discuss recommendation tomorrow on the plenary call. So, I understand, from what you said, that we would remove that and from the work plan we had discussed with the leadership, there is indeed a plenary call scheduled on the 3rd of July and what was scheduled for the plenary call was to do a first run-through the final list of recommendations and to review the input received on the draft final report that would be shared with the review team [inaudible]. But, if you feel that it's too early ...

LAUREEN KAPIN: So, I'm screwing up the schedule.

JEAN-BAPTISTE DEROULEZ: No, but if we're able to [inaudible] the subteam [inaudible] too early to discuss, we can [inaudible] tomorrow with the review team, then we

can add that to the plenary call on the first week of July and still welcome input via e-mail before that.

LAUREEN KAPIN:

Then let's do that because I do think it's too soon for the plenary call, particularly because Drew is out of commission and also because folks haven't had enough time to digest this. So, maybe what we can do is ask for folks to get comments in by the end of next week and that way we can put this for the plenary call on the 3rd. Is that what you were suggesting?

JEAN-BAPTISTE DEROULEZ:

No, I was just looking into what would be best for the review team. David, you have your hand raised.

DAVID TAYLOR:

I do. Thanks. Yeah. I agree with Laureen. It's too early for the plenary and I do think everyone on this call, including Drew, needs some time to look at it. That's completely my fault because I'm the one that's screwing the schedule – not you, Laureen.

So, I agree with that. I think if we can make use – I don't know how many people are at the ICANN meeting in Panama. If we could make use of that and sit down for an hour or an hour-and-a-half together, that would be very useful on this one, for those who are there in the face-to-face so we can trash out some of these and potentially amend any drafts. So, I'd almost say if this group could provide anything, say a week from today by the 26th. So, anything in writing, any thoughts. Or, if not,

come prepared to discuss it at the ICANN meeting. Then we can set aside some time, perhaps, the 27th or the 28th. I don't know when you're going and when you're coming, but if we can set aside some time during Panama face-to-face, we can make a lot of progress on this, I think. That would be ideal.

Then, the only thing I'd say for the plenary planned on the 3rd, I won't be able to make that. I'm due to be walking up Machu Picchu on the 3rd. So, I don't think I'll be available on the top of Machu Picchu to do a call that day, but I should be back by the end of the week. [inaudible] back on the Thursday evening or something. [inaudible] but I'll definitely be out on the 3rd.

JEAN-BAPTISTE DEROULEZ: That's not really a good excuse.

LAUREEN KAPIN: So, could we reschedule the ... David needs to be on the plenary call when this is being presented. Actually, David and Drew should be on the plenary call when this is being presented. So, can we figure out a time to reschedule the plenary call for when they will be available? Then, David and Jean-Baptiste, maybe you can coordinate about reserving some space somewhere in Panama for us to meet. Maybe send out a Doodle poll or something where we can identify some possible times and then perhaps seek Jean-Baptiste's assistance to secure us a room where we can actually meet for that hour or so. Does that sound like a possibility?

DAVID TAYLOR: Sounds good to me.

JEAN-BAPTISTE DEROULEZ: Yeah. We'll look into it.

LAUREEN KAPIN: Okay. So, I'll leave you two to coordinate both on timing for a little mini drafting discussion session in Panama, and then b) figuring out a time for the plenary call for when both you and Drew will definitely be available because you're going to be the best resources for questions and reasoning on this.

DAVID TAYLOR: And just to check as well while we're on the call here, you're going to be there, Laureen. Jamie is obviously going to be there. Drew is going to be there. Calvin and Carlton, are you both there in Panama?

LAUREEN KAPIN: [Not] Calvin and I'm not sure about Carlton. You can send a message. Just send a message to the review team and ask people to respond for who is going to be there. That will be the best way to do it.

DAVID TAYLOR: Okay. Then we could probably dial in if Carlton or anybody, Calvin, if they're not there. We'll try and find a time which might be convenient for you to dial in then. If you wanted, you can join the meeting, so that

we're not leaving you out in any way. So, if we have the subteam convening, then we can hopefully get most of us on who want to be on.

LAUREEN KAPIN: That sounds good. So, do we have any other business? I think we're beyond time. Anything else, Jean-Baptiste?

JEAN-BAPTISTE DEROULEZ: No. I was just asking David in the chat whether the 6th of July would work for a plenary call.

DAVID TAYLOR: Let me check. I think I'm flying back on the 6th or the 5th. I'm not sure which. I'll check my flights and I'll get back to you. I think I'm around on the Friday. I think I get back on the Friday, the 6th. But let me check on what time I'm back.

LAUREEN KAPIN: Okay. Well, thanks, everyone. Have a good rest of the week, and for those flying to Panama, safe travels and I will see you there.

DAVID TAYLOR: Thanks a lot, everybody. Bye-bye.

[END OF TRANSCRIPTION]