
BRENDA BREWER: Thank you all. I'd like to welcome you all to the WHOIS 1 recommendation #10 Privacy Proxy Services Subgroup Call #3 on 14 June, 2018 at 13:00 UTC.

Attending the call today is Volker, Alan, Dmitry and Susan.

We have apologies from Catherin.

From ICANN org is Lisa, Jean-Baptiste and Brenda.

Today's call is being recorded. I'd like to remind you to state your name before speaking, and I'll turn the call over to Volker. Thank you.

VOLKER GREIMANN: Yes. Thank you very much. The stage that we are in is that we are still in deliberation over certain comments that we have received from both myself and Lili, and further information from Susan, Carlton and Erika regarding the Section 3 #6 in the table which is with regard to the requirements to conduct periodic checks and due diligence checks on the customer contact information. That is one point that we would have to deal with today.

The second one would be Section 4, just refining the issues. There have been a couple of comments there as well. Does anybody have any feelings where they would like to start, or any proposals how to best move forward and incorporate those different comments into a single comment if possible that reflects all positions or any other suggestion on how to move forward?

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.

ALAN GREENBERG: I think that's an admirable target. I guess we should just start by – if you can quickly sort of try to put all the comments into a single summary of where we are and what are the differences. But I see Susan has her hand up.

VOLKER GREIMANN: Susan, please.

SUSAN KAWAGUCHI: Thanks, Volker and Alan. So I think there was some confusion – excuse my voice this morning – on #6. There have been a lot of comments on #6, but there is a PPSAI Working Group recommendation that addresses this which we didn't put in there. And you and I both, Volker, filled in some of this column on – I can't scroll on this. I have to come back to my other page here. Where are we? I don't see a page.

Anyway, on chart #6 on conducting periodic due diligence checks on customer contact information. Just so everybody's on the same page, the WHOIS Review Team was prior to the 2013 RAA, and so there was no language – we couldn't say, "Oh, make sure that the information collected for a privacy proxy for the underlying registrant be adhered to the 2013 RAA," because it didn't exist.

So the working group, PPSAI, then recommends that the privacy proxy service customers data be validated and verified, and verified in a manner consistent with the requirement outlined in the WHOIS accuracy specification. And so I think if we copy that recommendation in

there – and it could be that Lili didn't know that existed. I don't know, or I can't speak for Lili. Would that satisfy her requirement for data accuracy?

But one of the comments you made is that – Volker, and I'm just reading this, "Review has shown us that checks are currently envisioned." So to me, that's confusing, because there is a recommendation for the same standard of data accuracy checks as regular registrations. So maybe we can just clarify that there and put the working group recommendation in that and point to it.

VOLKER GREIMANN:

I think that would make sense. I felt from Lili's comments that she felt that more checks than currently envisioned in the RAA should be required. I'm not sure if I read that correctly, but she clearly felt that even if that were the case, that wouldn't be enough and there should be periodic checks, whereas the RAA is not really fixed to a certain period for that check but rather has certain trigger moments where checks would occur, such as inaccuracy responses or first activation of the service, or transfers, stuff like that. So there wouldn't be a regular interval at which checks would have to occur, but rather, certain trigger moments.

And I think my first phrasing was a bit unfortunate, because it was probably too brief when I said that no such checks are currently envisioned, because I meant that there were no periodic checks, but rather – and that I left out certain trigger moment checks and the

checks would have to occur in the same manner that they would occur in the 2013 RAA for registrars.

So I think you're right, Susan, I'll try to clean up that language and expand on it to just make sure that the intent that has been discussed in the PPSAI Working Group final report is better reflected, and that may clean up some of the issues. Any other comments?

SUSAN KAWAGUCHI:

At the very least, it'll move the dialog further along, I think, if she's reassured that, "Look, some of this is already..." I tend to agree with her that I would like more accuracy in the WHOIS record, but it is what the community agreed to, and she just may not be aware of that. But I could be wrong and she may say, "No, we need to do more." But I think in this case, Volker, I think you and I agree that the working group final report fulfills that part of this recommendation.

VOLKER GREIMANN:

Exactly. Yes, that's my feeling as well. Alan?

ALAN GREENBERG:

I believe we had an agreement at the beginning that we would not relegislate recent PDPs and certainly not one that isn't even implemented yet. So although we could all agree that we should have better checks, we're not really in a position to say the PDP should be reopened to change what the conclusions were. Certainly, if a PDP was seven years ago, we could do that, but not one that's just in the process.

So I think we have to stick to that part of our – I think we may have had that agreement. I remember having the discussion somewhere or other.

VOLKER GREIMANN:

Yes, I think I remember that as well, and I'm very happy that you reminded us of that as well, because during the discussion, it felt at times that the intent was to actually go beyond what the PDP has recommended and re-legislate some of the points that were already decided in the PDP. And if we can make it clear that these points have been taken into consideration, the PDP has come up with that result and we feel that this is a proper implementation, or at least are unable to comment on whether this is appropriate because we haven't seen an implementation yet, I think we're in a good stage.

And maybe once the PDP is finally implemented – it can only be a matter of years now – we have a following review team in a couple of years' time, we'll have more opportunity to redress any grievances or any problems that may have arisen from certain insufficiencies. But at this time, it's just very hard to say if something is sufficient or not, because we haven't seen it play out in the market yet.

ALAN GREENBERG:

At some level, even if we can say it isn't sufficient, it's not clear we have a strong mandate to reopen it, or what the process would be. Because remember, we cannot recommend changes like this. We can recommend them, but the board cannot take action on them other than by initiating a PDP or by negotiation. So one of our targets is implementable recommendations. So it has to be somewhat realistic.

The chances of this PDP being reopened at this point to do this or negotiating this particular thing I don't think is very high. So I don't think such a recommendation would meet the target of being implementable if done today. That may be unfortunate, but I think that's the reality.

VOLKER GREIMANN: I fully agree. The IRT has been a lot of pain for a lot of participants, and now moving back to the working group stage and reopening certain issues, heads will explode, I think.

ALAN GREENBERG: I don't think you'd get the GNSO to agree to do that. The board could force a PDP over it. I don't see them forcing it over this.

SUSAN KAWAGUCHI: And then just to move on to the issues, I didn't make any recommendations here. I don't see a recommendation really, but we could address the fact that the funding, but I think that we sort of saw what ICANN came back with. We could push on them because this recommendation, the original recommendation for the WHOIS 1 team says the [inaudible]. The IRT could use that to pushback, and we could make a comment on that that they would provide some sort of incentive. I don't know what that would be, whether a Happy Meal or maybe half of your accreditation fees, I have no idea, but we could push on that because I don't think the proxy privacy – I'll check the report on that, but I don't think the working group really addressed that. I've got the report up somewhere here.

But I do think Lili came up with a good point that we should not allow what happened with the – and I know you probably don't agree with this, Volker – in the grandfathered domain names on adhering to all the contact fields, collecting all the contact fields. I just do not feel like if we put a new policy in place, that then we have groups of domain names that do not have to adhere.

And if we keep doing this down the road, we're going to have 15 policies and 15 groups. "Oh, well this is in that group. It doesn't have to pertain – adhere to this or comply to this policy." I think that's a bad way of implementing policy. And so we could add – we sort of have a general recommendation that came out of the data [inaudible] and compliance about all domains adhering to the same policy. When a new policy is created, all domains should adhere to it.

We could add the privacy proxy. I never envisioned, or it never came to mind that we could put in a privacy proxy accreditation and lo and behold, all the old privacy proxy accreditations up to that point don't have to – or the registrations that are privacy proxy would not have to be treated the same way as incoming new ones. I don't think that's what the working group envisioned, and I think that would be a bad way of handling this policy.

VOLKER GREIMANN:

I actually agree with you on this point. I think Lili's question was more to the effect that when she addressed legacy domain names, that specifically referred to legacy domain names under the 2013 RAA terms, i.e., verification or validation. However, even those legacy domain

names have certain stages at which they will be triggering the requirements of the verification and validation requirements, as in for example, if an owner change happens, if a domain is transferred from one registrar to another.

So while there probably still is a majority of domain names that have not been touched, that number is getting smaller, and we don't have any concrete numbers of how many domain names are considered legacy and how many today already have been touched under the requirements of the 2013 RAA. So that's something that if we want to comment on, we would probably have to have more numbers.

And also to provide a little bit more background, that had been very contentious issue during the RAA negotiations because of the huge amount of pain this would result in if we as registrars had to touch all the registrants from our end that didn't come to us and put them to a verification regime that would ultimately result in domain names being deactivated if they didn't react within 15 days, which would, in our view, cause chaos. So that's why we agreed on the compromise of having domains that were considered legacy, and then everything else that was basically under the regime of the 2013 RAA. And then number is steadily growing, of course.

ALAN GREENBERG: Yes. I see Lisa has her hand up, as do I.

VOLKER GREIMANN: Yes, please.

ALAN GREENBERG: Lisa was first.

VOLKER GREIMANN: Sorry.

LISA PHIFER: Alan, I'll let you go first, because I wanted to return to the previous point and confirm the agreement.

ALAN GREENBERG: Okay. Our agreement is that we don't relegislate PDPs. I don't think we have such an agreement on negotiation number one. So I think it is fair game to make a recommendation. And this may not be the right place for it, but since we're talking about the grandfathering and the 2013 RAA. Now, that doesn't say what the timeframe is that it has to be done over and it doesn't say that that 15-day response that Volker just mentioned has to be the same one that is used for bringing the grandfathered ones under the envelope of verification.

So if that is something that is necessary – and probably that comes out of the data accuracy one, not under privacy proxy, obviously – I think we have the tools to do that and try to make sure that the kind of pain that Volker is talking about is not unreasonable, but at the same time, not be in a position where forever and ever, we have these grandfathered domains. It may take seven years or whatever it is, and if a domain is working just fine right now, to suddenly because it's triggered say

there's a 15-day limit that the response has to be done may be completely unreasonable. And maybe it's done at renewal time.

So I think we have lots of tools on our hand to try to address that problem if the review team thinks it's an issue. And I don't think we want to mess up the privacy proxy one by trying to intermix them.

VOLKER GREIMANN:

Lisa, if I may just cut in briefly, I agree with Alan that this is something that we would probably have to discuss at our next face-to-face, not at this stage. So let's just put that on our agenda for a brief discussion at the correct point in the day-to-day accuracy topic at the face-to-face.

ALAN GREENBERG:

Volker, in advance of that, we may want to draft some sample language, just to have something to discuss as opposed to vague handwaving at the meeting.

VOLKER GREIMANN:

Exactly. And I would like to provide some more background of how it currently works and why I believe it's not that big of an issue that some others may think it is. So I'm happy to have that discussion at the face-to-face.

Another point that I noted is that some of the issues are currently phrased in less than neutral language.

SUSAN KAWAGUCHI: Of course they are. Can we go back to Lisa though? She just needs to confirm our first agreement here.

VOLKER GREIMANN: Yes. For example, if I look at Issue #3, there's so much loaded language in there, and the same could be said in very neutral language. And I would just propose that I just try to make it a bit more neutral so the issues that we do raise do not raise the alarm of half the community, and just to make a point that is not currently [inaudible]

ALAN GREENBERG: Volker, propose language, and if we agree that you're doing a neutral job, we won't object to it.

VOLKER GREIMANN: Yes. I just wanted to say that I would try to change some of the language that's not currently marked as edited. So just a heads up. And I would circulate that probably tomorrow or Monday to the group, and then hopefully have something that we can release next week to the full group.

LISA PHIFER: If I could break in, I'm afraid that I've gotten a bit lost in what's actually been agreed to in the call. So if I could go back and double check what was agreed to on the first point, and then we could retouch on the issues that have been discussed so far and make sure everything's covered in the actions Volker is taking away.

VOLKER GREIMANN: When you say the first point, do you mean the table, the Section 6?

LISA PHIFER: Yes. If you go back to Item 6 in the table on page 5, it was a whole discussion on Objective 6 produced by the first review team in their Recommendation 10. I have put in the notes pod there what I believe the action item was, and I'd just like to confirm at least amongst those of you on the call that you agreed to this, that Volker, you'll redraft language for the subgroup initial findings column that refers directly to the PPSAI PDP's final report, their recommendation for this question which I've copied the text in there. It was the text that Susan read aloud.

VOLKER GREIMANN: Yes, I will clarify the initial language proposed to just make sure that the complete intent of the working group is better reflected.

LISA PHIFER: And then the agreement amongst those of you at least on this call is that you agree that this particular objective was taken into consideration by the PDP Working Group in its final report, and it's not appropriate for the review team to comment on the sufficiencies of that until implementation is complete.

VOLKER GREIMANN: Correct.

ALAN GREENBERG: I thought what I heard Susan say – and I didn't participate in that PDP – is that she wasn't sure if they really did consider this part of the recommendation, but that's still water under the bridge.

SUSAN KAWAGUCHI: No, that isn't what I said.

ALAN GREENBERG: No? Okay.

SUSAN KAWAGUCHI: I thought that that recommendation from the PPSAI Working Group fulfilled that part of the review team recommendation to – what was it? [inaudible] and although it would be lovely to have more accuracy, I think what the community has agreed upon in the 2013 RAA satisfies #6.

ALAN GREENBERG: Okay.

SUSAN KAWAGUCHI: And that's the recommendation from the PPSAI Working Group.

VOLKER GREIMANN: I understand exactly what you mean, yes. I think we can try to be more inclusive that way.

SUSAN KAWAGUCHI: Yes. It's not bad it's done this way now in my opinion, because we all sort of know what we're talking about, though I would be very hard pressed to quote what 2.4.5 was from the RAA. I'm relying on your knowledge on that one.

VOLKER GREIMANN: Just to move ahead, the second point that you have as action item, Lisa, I think we agreed that we would not pick that issue up at this stage in the privacy proxy, because it rather belongs to the data accuracy question. There is no definition of grandfathered domains in the Privacy Proxy Working Group report, and there are no such domains when it comes to privacy proxy. It's more of a 2013 RAA issue than a privacy proxy issue.

So I would propose that we talk to Lili that this would not have a place in this report, but rather be taken up at the face-to-face and addressed in the data accuracy point. Is that something that everybody in this group can live with?

SUSAN KAWAGUCHI: Lisa's got her hand up.

LISA PHIFER: No, go ahead, Susan.

SUSAN KAWAGUCHI: So back to the discussion about five, ten minutes ago when we were talking about the grandfathered domains, is it true that – you seem to be saying that even the accuracy and the verification, validation – I get the two terms confused on what actions those are, but those are not performed on the grandfathered domains? I thought the only thing that grandfathered domains were grandfathered in for was not having to provide the registrant contact information if they decided.

VOLKER GREIMANN: The compromise at the time for the 2013 RAA was that certain checks that would occur at the registration transfer and certain other trigger moments of a domain name would not occur initially when the 2013 RAA would be adopted, but what would apply, for example, would be that a domain that has not been touched at a certain point, and after that trigger moment would occur, then they would of course have to undergo that verification, validation process, meaning that, for example, if a domain name had been registered at a registrar and the registrar signed the 2013 RAA, he would not have to immediately check that domain, but if a certain trigger moment like a transfer occurred, or owner change or mandatory sent e-mail like the WHOIS data [reminder] policy e-mail was sent and bounced, that would trigger a verification just the same as for any other domain.

So the only difference between a legacy domain so to say, a grandfathered legacy domain and a properly verified domain, is what happens when the registrar – whether the domain was, A, registered at the time the registrar signed the 2013 RAA, and if a trigger moment had occurred or not.

SUSAN KAWAGUCHI: But we also know that they're not required to collect the same amount of information.

VOLKER GREIMANN: That's correct.

SUSAN KAWAGUCHI: So it goes beyond verification.

VOLKER GREIMANN: That's the second issue. Certain information – well, it's less the question of whether information is collected, because that basically in most cases matches very clearly, but rather a question of formatting and meeting certain data quality standards, as in street addresses formatted correctly, the postcode has the right amount of numbers. So that's part of the validation requirements, for example, that would also be required. So the telephone number has been in the past, everybody had their own format that they put into that, and that had been unified in the 2013 RAA just to make it more parsable and to standardize the output format.

And the legacy domains did not have to undergo that at the time when the 2013 RAA was signed, so a registrar was not supposed to go through the entire database and check and validate and verify whether everything was up to the new standards. But of course, once a domain name like that is transferred, then they undergo that check anyway. So then the registrar would send the e-mail to the registrant and say, "Hey, you transferred the domain to us. We noticed that it's not the right format. Could you please update your data?" And that's what occurred.

Not having cross-field validation at this stage, if we had cross-field validation, that would have a much larger impact, having legacy domains or not. But at this stage, we still do not have cross-field validation, and therefore the actual impact of what has to be done for a domain name that undergoes the verification or validation scheme is not that big of a deal. It just means having to touch all the customers that have incorrect data, because obviously, we cannot correct the data for them.

SUSAN KAWAGUCHI:

So I was missing some understanding on that, and this really goes to a different subgroup, so maybe we should table this for now and I'll put some thoughts together, because I think we have a broader recommendation for the grandfathered domain names, or just policies in general, because I was just focusing on what they were collecting, not what they were verifying or validating.

VOLKER GREIMANN: Right. I think the cost issue, I'm basically willing to drop that at this stage, because the way things are going, we are probably releasing our final report at the same time that the IRT finishes their work, and therefore whatever we recommend will already be superseded by the final release of the policy. So I'm not sure what good it will do to still harp on that issue even though it has already been decided. I would like to see it in there, but as I'm the only proponent for that, I'm not willing to die on the beach for that.

SUSAN KAWAGUCHI: I do think we could... It makes a lot of sense to... We could make some reference to that, and then reference that we do not see the sort of recommendation of using incentives [instead of] sanctions to encourage, enforce this policy. There's no recommendation in the working group report on that, nor in the IRT, so we could add to that.

Lisa still has her hand up too. Poor Lisa, we're ignoring you.

LISA PHIFER: That's okay. I'll jump in when I think it's necessary. I had wanted to close on the grandfathering issue, but why don't you finish your discussion on the fees issue now?

VOLKER GREIMANN: My biggest concern with the fees issue was and still is – and still having that discussion on the IRT – that we will just create a scenario where this accreditation scheme will just catch the providers that are affiliated with the registrars, but all the unaffiliated providers will try to get under

it and use loopholes to avoid getting accredited to just save on the fees, and therefore also saving on the enforcement and the requirements of being accredited.

By adding fees, you just create another hurdle to the accreditation that probably is not to the benefit of an accreditation scheme that's trying to regulate an entire industry, if you're creating more incentive to just circumvent that policy.

SUSAN KAWAGUCHI: So I'm fine with adding something to that. That is actually more than what your initial comment was here. But I think it's a comment, not a recommendation.

VOLKER GREIMANN: Yes.

SUSAN KAWAGUCHI: And I don't think just by commenting on it that we're sort of going back and telling the board that, "Hey, you need to open a PDP on this," but that maybe they could use it as guidance. And it might be beneficial down the way for it to be noted in a report, because then others can point to the report and say, "Look, even the WHOIS Review Team 2 pointed this out, and now we're seeing that scenario." So something should be done here, and we should figure out that mix of incentives and sanctions.

VOLKER GREIMANN: Yes.

ALAN GREENBERG: I think if we have a concern that the way we see things going, we may be jeopardizing the privacy proxy policy because of the fees, I think we have to make at least a comment. And in fact, we probably could make a recommendation that when the board considers the implementation, they make sure to factor in whatever our concerns are. So I don't think we should be silent on it if we have a real concern.

We said we're not going to make recommendations on the factual part of an ongoing or a just completed PDP, but that doesn't mean we can't raise concerns. And we could raise it strongly as a comment, or even as a recommendation, that the board factor this concern in when evaluating the outcomes.

VOLKER GREIMANN: Okay.

ALAN GREENBERG: That presumes the outcomes don't happen before we're finished and it's too late.

VOLKER GREIMANN: Right. That was my basic concern, that if we come too late, then this will already be [inaudible]

ALAN GREENBERG: So be it.

VOLKER GREIMANN: But I see Stephanie has her hand up, so maybe just a few words from Stephanie.

ALAN GREENBERG: Stephanie, we can't hear you.

STEPHANIE PERRIN: Now can you hear me?

ALAN GREENBERG: Yes.

VOLKER GREIMANN: Yes.

STEPHANIE PERRIN: That's funny. The mute thing does seem to work normally now with the new version. Anyway, I just wanted to say it's perhaps early in the review given that the IRT is just sort of winding up this cost debacle happening. It's a bit early to do what I would call a regulatory impact assessment on what's actually happened, but I think unbeknownst to us, this thing is going to have a lot of impacts that were not anticipated, partly due to cost, due to anticompetitiveness, due to impact of GDPR. I think it's going to force a lot of privacy proxy services out of business for

any of those reasons. There's risk that in developing countries which will not necessarily be protected under GDPR, that these services will be priced out of the marketplace, and people will be worse off – people being end users, of course – than they were before.

So I think it really is important if we can – obviously, we can't factually prove these things yet, but I think it's a grave concern. If you're trying to regulate and improve a marketplace, you should not be – as Volker says – driving people to go AWOL and have unregulated services, or forcing them out of the marketplace. Thanks. So it's really important. Whether it's a recommendation, I'll leave that to you folks. And Alan, you probably have a good idea on that. But I think we should comment at least. Thanks.

VOLKER GREIMANN:

Thank you, Stephanie. And yes, I can confirm from talks I've had that a lot of registrars that are offering their affiliated privacy services that are based in Europe are currently looking at the proposals from ICANN for a fee and saying if that's what's coming out of it, then they'll just stop offering privacy service because GDPR already provides much of the same services to their customers anyway, non-disclosure of their private information and therefore having to operate a service that only provides minimal added benefits, and then having to pay for that just does not make business sense anymore. So yes, I'll try to phrase that into a comment.

LISA PHIFER:

If I could jump in here now.

VOLKER GREIMANN: Yes, please.

LISA PHIFER: So I would like to solidify what's already been discussed, we've already talked about how you'll handle Objective 6. So on the issue related to grandfathering, I've recorded two actions. One was for you, Volker, to draft some language that you want considered as part of the data accuracy report, and that in this particular report, the privacy proxy report, you'll not have any discussion of grandfathering since it's not a concept that applies to privacy proxy policy per se.

And then Susan took an action to revise the recommendation on grandfathering compliance in the Compliance [Subgroup] report to address the concern about whether this privacy proxy policy or any other policy applies to all domain names.

Now, with respect to the cost issue, Volker, I heard you suggest dropping it for now since implementation was underway, but then I heard Susan suggest it be mentioned. Just to remind you all, right now there are no recommendations on privacy proxy. All you're doing is identifying issues. What do you believe the outcome is for the fee discussion? Are you going to include it as an issue but reword it, or are you going to drop it?

VOLKER GREIMANN: I think we'll just have it as a brief comment that we would like to see – trying not to phrase it as a recommendation, but something that should

be maybe looked at as a second – yes, I’ll just think of some language to phrase it as a comment. My brain’s freezing up right now, so I’ll figure something out. And Stephanie, you have your hand up.

STEPHANIE PERRIN: Yes, thanks. Can you hear me?

VOLKER GREIMANN: Yes, very well.

STEPHANIE PERRIN: Wonderful, thank you. I note that the law enforcement folks aren’t on this call, but I’m putting my ex-government hat on for a moment here. I think there are grave concerns about the cost impact in developing countries where in particular some of the bad privacy proxy abuse is coming from. And I’ve been saying since I got to ICANN they should have regulatory impact assessments on some of these policy initiatives, and this is certainly one, because if you’re actually driving more bad behavior, we should find that out sooner rather than later. So a recommendation to do a regulatory impact assessment, finding a suitable word to replace regulatory because of course we don’t regulate, I think that would be a useful recommendation. Thanks.

VOLKER GREIMANN: Thank you, Stephanie. Anything else that people would like to raise regarding the privacy proxy draft report? If not, I think –

LISA PHIFER: Volker?

VOLKER GREIMANN: Yes.

LISA PHIFER: I think unless I missed it, we still need to close on Lili's additional item regarding privacy proxy abuse, as well as the question about Issue #2, what Issue #2 really should refer to with respect to impact of GDPR.

VOLKER GREIMANN: Basically, I think we should just have it as a comment that we expect that there will be an impact but it's too early to see what that exact impact will be. I'll try to figure some language. We've discussed it during our talks today as part of the other discussions already, and I think I have some ideas how to put that in with the GDPR.

With regards to the abuse question, that's why we're having this accreditation program. That's what it's designed to deal with, and I'm not sure what more you can want at a stage where it's currently being... the recommendations that have been approved by the board, the GNSO and the working group currently being implemented. It's just something that we could set up for the next review team in some form or shape down the road that they look at that again and see what the fallout of – what the effects were that the privacy proxy accreditation program had

on abuse of these programs. But I don't see us turning it into a recommendation at this point. Stephanie?

ALAN GREENBERG: Before Stephanie continues, can you point me to which comment it is that we're talking about?

LISA PHIFER: We're talking about Lili's suggestion. She wanted as an additional issue point 3, page 7 which is probably being displayed for you. If there's not enough regulation and oversight in place, privacy proxy service is likely to be abused.

ALAN GREENBERG: Okay.

LISA PHIFER: And there was a fairly long thread on that point.

ALAN GREENBERG: Okay. Thank you.

LISA PHIFER: But to my knowledge, there was never any actual issue text suggested in that thread.

VOLKER GREIMANN:

I think I will just try to phrase that in a form that would say that we recognize that certain abuse happens with the use of these programs, and we expect that this will be resolved or mitigated by the accreditation program which has been designed to take care of that in part, and we expect that a future review team would look at this issue again and see whether this is in fact the case. But I wouldn't turn it into a recommendation at this stage. Or does anybody feel that we should indeed recommend to ICANN that a formal review would be placed on the privacy proxy service accreditation program that would take into account any trend in levels of abuse, upwards, downwards? I think it's very difficult to make a good recommendation on that, but if anybody feels that it has to take place, then –

ALAN GREENBERG:

We could certainly recommend that no later than two years after the start of the program, that ICANN conducts such and such a review, if we can identify just what that review is. And it's exacerbated because of the pricing issue. So it's both the combination of real privacy proxy providers who are authorized allowing abuse, and then the non-real ones providing similar services that aren't even under the auspices of the agreement.

So I think it would be fair. These reviews are five years apart, they may be farther apart by the time we finish our long-term recommendations on reviews. I think it's fair for us to put a requirement on that a review be done. If it's not already implicit in the privacy proxy process, then I think it is reasonable for us to do that.

VOLKER GREIMANN: Just a question. Susan, correct me if I'm wrong, if I'm remembering that incorrectly – Stephanie, you might help too. Hasn't the GNSO recently decided on a program that would review the impact of policies that it has put into place anyway so that certain – I'm trying to remember what exactly the language was, but I think there was a decision by the GNSO council that basically said that they would look at new policies and their impact after a while and see if anything wouldn't have to be changed as it automates the process. And if that were doubling up, if a program like that already exists, I don't think we have to recommend doing such a review, because that's already envisioned in the part of the PDP process.

SUSAN KAWAGUCHI: I remember a discussion of that, but I don't think there's anything formal. But let me go back to – because it was probably our strategic planning session that we talked about that.

ALAN GREENBERG: There was a discussion on essentially measuring and monitoring things and making sure that policies were instrumented so that they could be tracked. But that doesn't put an actual – that's going forward. And even if the GNSO says they're going to do it at some point, us putting a date and a target on it I think is reasonable.

Moreover, PDPs can only instrument the policy. They can't necessarily instrument, in our case, people or entities that choose to not register as

a privacy proxy service. So I think it's fair game even with that GNSO practice. I don't think it's any more than that.

VOLKER GREIMANN: Right. Yes, I might have misremembered that, but it's something that I had in my head that was discussed, and I'm not sure how far that went with the [inaudible]

ALAN GREENBERG: I think they said future PDPs should make sure this is addressed.

VOLKER GREIMANN: That could very well be the case, yes.

ALAN GREENBERG: Stephanie has her hand up.

VOLKER GREIMANN: Thank you. Stephanie.

ALAN GREENBERG: And we are nearing the hour.

STEPHANIE PERRIN: Yes, I think Susan's correct. I think it was in our strategy planning session, and I think it made it into that document, PDP 3.0 or whatever,

the new – but we would need a resolution to sort of vote that through and make it part of our process. And I think it's a really good idea, because we don't look at these things on a systematic basis. And that was as full discussion at that strategy session. Thanks.

SUSAN KAWAGUCHI: So the only hesitation I have in this – and I think we should make a comment at least, if not a recommendation – is that we were also subject to the review of the review, which we were able to navigate out of, but people – ICANN org it seems does not want to do reviews. Not that they don't want to, but we have a lot of reviews, and then if we start saying, "Oh, you need to review every new policy in two years," which makes sense to me, then really, it should be a compliance function. So this may just be another compliance recommendation, but we may get some pushback. Which I'm fine with pushback, I just want to recognize it ahead of time.

LISA PHIFER: If I could jump in for a second.

VOLKER GREIMANN: Sure. Please.

LISA PHIFER: It strikes me that you're struggling with the difference between formulating and implementing the policy and then making a recommendation, but there's a missing step which is actually collecting

the information that would inform any review or any future policy. And so maybe where you're heading is actually collecting data to determine whether privacy proxy services have been abused. And then that data could be taken up through a policy review or a Compliance [action.] But if you don't have the data, you can't do either.

VOLKER GREIMANN:

Correct. It basically also means that data would have to be researched right now to make sure that we have a baseline to compare against, as in if we are saying that there is a certain trend that is a result of this program, then we would have to be very certain of what the status quo was before the program existed.

But I think we're currently at the top of the hour. If nobody else has any comments, we should close, because Alan said that he had a hard stop as well. I think we should just try to do the remainder if anybody has something to add on the list. I will try to finalize the draft as soon as possible, and then we can discuss that and hopefully have something ready by the end of next week so we can go to the face-to-face with a happy face.

ALAN GREENBERG:

Thank you, Volker. Good meeting.

VOLKER GREIMANN:

Thank you.

ALAN GREENBERG: Bye-bye.

SUSAN KAWAGUCHI: Yes, I think it was a good discussion. Thanks, all.

[END OF TRANSCRIPTION]