
BRENDA BREWER: Hello, everyone. Good day. This is Brenda speaking. Welcome to WHOIS2 Plenary Call #39 on 20th of August, 2018, at 15:00 UTC. Joining the call today, Alan, Dmitry, Carlton, Susan, Lili, and Stephanie.

From ICANN Org, Alice, Maguy, Lisa, Brenda, Trang, and Owen, and Volker who has just joined us.

We have apologies which are delayed, apologies for being delayed from Cathrin, Erika, and Chris. No observers have joined at this time.

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

ALAN GREENBERG: Thank you very much. First of all, are there any changes to statement of interest? Seeing nothing, hearing nothing, we'll presume not. This is a relatively important call. It is the call immediately before next week's call where we plan to finalize and approve the final report. Not the final, sorry. The final draft report, or the draft final report.

So, we still have a number of areas of changes that have been made either since last week or changes that we have not been able to review yet coming out of – effectively out of the work following the third face-to-face meeting in Brussels. With that, unless there is anyone who has any other items they would like to either add to the agenda or modify the agenda, I'll give people a moment to make comments. Hearing nothing, seeing nothing, we'll accept the agenda and proceed.

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.

The first data on our agenda is data accuracy. Lisa, I'll turn the call over to you to raise whatever issues you want first and turn it over to the rapporteur.

LISA PHIFER:

Thanks, Alan. You'll see on the slide the refined language for the new recommendation and the data accuracy section with regard to looking for potential anomalies in ARS results with a particular example of the 40% of ARS-generated tickets closing with no action because the WHOIS record has changed before the ticket is processed.

The reason that we asked the compliance team to join us on this morning's call was to perhaps try to get some more clarity around that number of 40% of tickets being closed with no action because the WHOIS record has changed. Maguy and team, previous discussion on that within this group generated a number of questions for you. The most recent [actor] I think is what's linked here on this slide. But, there was sort of a general feeling that 40% of record actually having changed in that time window of three or four months between ticket generation and processing seemed rather high, so the team was looking for perhaps more clarity around the reasons that the records might have changed or anything that you see when you go ahead and process the ticket that you receive from ARS that causes the records to be closed with no action.

Lili, I invite you. I don't know if you're able to speak, but I invite you to add any thoughts that you had.

ALAN GREENBERG: I have a quick comment afterwards.

LILI SUN: Thank you, Lisa. I also had the impression that for today's plenary call, we will have colleagues from the compliance team and the GDD team to give us some clarifications on the [inaudible]. Actually, the concern arrived from the face-to-face meeting in Brazil last month and the whole review team has the concerns about the high ratio of the WHOIS record change during just a relatively short period of time. We want some more clarifications about the [situation]. This is all from my side.

ALAN GREENBERG: Thank you, Lili. I guess I want to try to rephrase the question in a different way. The [inaudible] reporting study selects domain registrations at random. If they find a relatively significant number of those to have something which causes them to pass it on to contractual compliance, which is an important statement in its own right. But, the numbers we see say 40% of them are changed, such that there is no need to contact the registrar.

If 40% of all nominally inaccurate records change automatically in a few months with no action, then we should be going down to almost no errors going forward, because if we change 40% per few months, we should be turning over all of them statistically in a relatively short time. That clearly isn't happening, which is what has raised the red flags to try to understand why of these particular ones are we getting changes made which remove the inaccuracy flag, but clearly, it's not happening on everyone. So, that's what we're trying to understand. Thank you.

MAGUY SERAD:

Good morning, everyone. This is Maguy Serad from contractual compliance. With me on the call is Owen and we hope we will be able to address the questions you have for us related to WHOIS ARS.

The first thing I just want to remind everyone is that registration does change, as we all know. We see it in our normal day-to-day processing of records, but in the case of WHOIS ARS, as its noted on the WHOIS ARS website, the processing and reviewing of this data takes anywhere from four to five months from the day it's selected to the day it's cleaned up and uploaded for contractual compliance to process through that.

With that, I'm going to ask Owen to speak a little bit about the closure of the WHOIS ARS, and hopefully, we bring clarity to the concerns.

OWEN SMIGELSKI:

Thank you, Maguy. This is Owen Smigelski from ICANN contractual compliance. I guess the question is saying is it raises a flag that, say, 40% of them or whatever those metrics are, are closed because the data has changed, just to reiterate what Maguy said. We do see quite a bit within the WHOIS ARS tickets as well as other who inaccuracy tickets, transfer tickets, that WHOIS data is not static. It changes. So, there might be an update to the telephone number or e-mail or to domain name transfer. There's a number of reasons why we see WHOIS records change and I don't think that's necessarily something inconsistent with or anomalous for this complaint type versus others. We see this all the time and I can't necessarily speculate for the number of reasons why the WHOIS data

may change, but given that time period, the data does change. So, when we see them, the reported error is no longer present in the WHOIS. That's why they're closing.

There's a possibility that there could be an inaccuracy in there, but because there hasn't been analyzed or reviewed or that information provided to the compliance, because it is different, that's why we close it.

ALAN GREENBERG: So, you're saying you close it because the specific inaccuracy is not there, not because you now verify that it meets accuracy standards.

OWEN SMIGELSKI: Yes. That resolve code which says WHOIS data went to process different from sample WHOIS data, all that means is whatever error or alleged inaccuracy, reported inaccuracy, that the WHOIS error identified, say telephone number, we can see the WHOIS data at the time it was sampled as well as the WHOIS data at the time of ticket creation, and if there's a difference, then that report of inaccuracy is not there, so we close it as inconsistent.

ALAN GREENBERG: I have a follow-up question. We know it takes several months to get from the ARS sampling to when it's brought to contractual compliance. Is that the day the ticket is open or do you have some processing to do because you get a whole pile of them at once? When is it sampled? Is it when the day it arrives or when you first have a chance to look at it?

OWEN SMIGELSKI: So, there's actually a couple of WHOIS data points that are captured. When the ticket is created, it includes the data from the sample. There's a WHOIS lookup at the time the ticket is created, and if there is a delay in processing, every time we touch a ticket we look at the WHOIS data as well, too, and we have the ability to pin that to the ticket so we can compare over time. So, it is possible that it may have just changed right before being processed or a number of other times.

ALAN GREENBERG: Susan?

SUSAN KAWAGUCHI: Thanks, Alan. Thanks, Owen, for the input, but I'm just not understanding. I looked at, I don't know, thousands upon thousands of WHOIS history and you just don't see a change to the WHOIS records at that volume and in that time period, in a four to six month time period, except maybe a renewal date – I'm trying to think. Some other type of status that would not be part of the data that you're validating.

So, could you give us concrete examples of what you've seen when you first see the domain name that's put on the list from ARS, what they've claimed was inaccurate and then what you're seeing. It would be helpful to really walk through a record.

OWEN SMIGELSKI: I'm not looking at a specific record here, but ones that we've seen that it'll state such as the postal address is incorrect, and you look now, they've enabled privacy-proxy service, so that inaccuracy is gone. Or it'll state that the e-mail address is not deliverable and the e-mail address in current WHOIS is different.

We do find this even with other WHOIS inaccuracy complaints. Somebody will submit a complaint about an inaccuracy, and when it gets to compliance, it's already been updated and changed. Inaccurate data gets corrected sometimes without us having to follow-up on that, but those are just a couple of examples, others as well. But, there's a number of reasons of why the WHOIS data can change, and when you're dealing with thousands of records, those do come up.

SUSAN KAWAGUCHI: So, in the ARS process, are they notifying the registrants at all?

OWEN SMIGELSKI: Can you clarify? At what point?

SUSAN KAWAGUCHI: So, when a domain name record is selected for the ARS program, is there any notification at that point, just for being selected to the registrant?

OWEN SMIGELSKI: No. There is no notification. The only point where there may be some type of contact with the registrant is if it's processed as a WHOIS inaccuracy complaint and forwarded to the registrant as per the RAA requirement.

SUSAN KAWAGUCHI: So, maybe that's where the disconnect is for me. So, ARS looks at ... To validate the e-mail address, they'd have to reach out to the registrar.

OWEN SMIGELSKI: I'm not familiar with the details of the testing, but I do know that there is a possibility of checking to see if a mailbox exists on a mail server as opposed to actually sending and expecting a reply.

ALAN GREENBERG: I thought they just do syntax, actually.

OWEN SMIGELSKI: No, no. There are two checks that they do with ARS. There's a syntactical check and there's also an operability check, so they will check syntax is the e-mail address, something @ something-dot something, basically [inaudible]. But, then they actually do test e-mail addresses.

ALAN GREENBERG: Yeah. That kind of test will not normally notify the recipient unless they're running their own mail server and have alerts added into it. Susan, anything else?

SUSAN KAWAGUCHI: Yeah. So, we're only talking about e-mail address, physical address, phone number. Is fax included in that? Remind me. I'm just not remembering [inaudible].

OWEN SMIGELSKI: I'm not sure, Susan, off the top of my head if that's included in there. I'd have to refer back to the ARS. I'm not familiar with that one.

ALAN GREENBERG: I think syntax of it is.

SUSAN KAWAGUCHI: So, when you get these records, for those four fields, 40% have changed. I would have to see a thousand records to understand it because that makes absolutely no sense to me.

ALAN GREENBERG: May I? That's the next question.

SUSAN KAWAGUCHI: Sure.

ALAN GREENBERG: Owen, how many of those 40% you do not need to do anything because they have been deleted?

OWEN SMIGELSKI: That would actually be a separate metric there. There's domain not registered when ticket processed or domain suspended or cancelled.

ALAN GREENBERG: So, that's over and above the 40%?

OWEN SMIGELSKI: Correct. So, you'll see, just looking at the data from cycle five still in process. It looks like it's a good 25% or so that are either deleted or no longer registered, suspended or no longer registered.

ALAN GREENBERG: Okay. I guess I'm confused even more now. I thought that you did take action on the 60% that is 100 minus 40. So, you're saying there are 40% that have been changed, and another 25% perhaps that have been deleted.

OWEN SMIGELSKI: So, if you look at the WHOIS ARS metrics, it's broken down by metrics distinguished, tickets that were closed before being sent to a registrar and then tickets that received at least one notice, meaning that it was

sent to a registrar. That was a community request to give those metrics differentiation. So, you can see, for those that are closed before going to a first notice, the WHOIS data change was about 54%, domain not registered or suspended is about 35%. Of the ones that were closed before being sent to a registrar. So, that's not ... [inaudible] be 55% of all WHOIS ARS tickets. Just 55% that were closed before first notice.

ALAN GREENBERG:

Understood. Okay. The number we've been working with is 40% are closed before first notice to the registrar, 40%. I think those are the numbers that we have been working with and that's certainly what our slide says displayed on the screen right now. 40% of ARS-generated tickets closed with no action because the record has changed. Or, is that a sum of changed or deleted?

OWEN SMIGELSKI:

Yeah. So, you're saying 40% of ARS-generated tickets closed with no action. That's because ... And the reasons are enumerated there in the metrics. It's invalid price, proxy, suspended, or it was a WHOIS format issue, or it was identified for a domain that was grandfathered.

ALAN GREENBERG:

Or deleted, I presume.

OWEN SMIGELSKI:

Yeah, domain is not registered, that was for cycle five that was about 25% of the tickets, of the ones closed before first notice.

ALAN GREENBERG:

Okay. So, the 40% includes the closed. Trang, yes, I know the numbers vary from cycle to cycle, but the 40 number is the average that we had been using in this particular discussion. I don't know whether it's an average or it came from a particular cycle.

We have hands. We have Lisa and Volker had his hand up at one point. I don't know if he wants to go back in the queue. Lisa?

LISA PHIFER:

Thanks, Alan. I have asked if Jean-Baptiste or Alice can display on screen the table that's embedded on page 51 of our report. That is the table that Maguy has referred to in chat as the results of the most recent cycle, showing the percentages. I believe – and Lili can elaborate on this if she wishes, but I believe that she summed up some of the percentages to come to the 40%, although it's been running from cycle to cycle similar in that aggregate.

Trang has also put in the chat a link to the phase two cycle five – excuse me, a link to the ARS validation for e-mail operability checks. To Susan's point, exactly how the e-mail is checked. I guess I'd like to invite Susan, maybe if you could elaborate a bit on what you were trying to look for there. Are you asking is the registrant aware that their e-mail was checked and could that prompt them to make the update, causing the update rate to be higher than you would have anticipated. Susan?

SUSAN KAWAGUCHI: Thanks, Lisa. That is what I was getting at. I think that's not clear and I'm sure the GDD and compliance team, it's probably clear to them. But, in the report, it's confusing to me. That's where pointing back to [inaudible] doesn't help for us because I probably read each of these reports three or four times and still come up with the same questions. So, it would be really good to understand step by step by step from GDD and then compliance exactly the action taken because there could be just a loose thread in there that I have not picked up on or Lili or several others that we're just not grasping.

So, is it possible, Trang, for you to tell us exactly the process that is taken to select these domains and then what actions are taken by the GDD? Trang, is that something you could help us with?

TRANG NGUYEN: Yes, hi. I'm sorry, I had to connect on the audio. Can you hear me now?

SUSAN KAWAGUCHI: Yes.

TRANG NGUYEN: So, Susan, the methodology of the ARS reports or study is actually in the report itself, but at a high level. So, we engaged an external vendor that assists us with a methodology to ensure that the sample that we pull is representative of the entire population of the WHOIS. So, based on those criteria, we pulled about approximately, I want to say, 200,000 records, but the report would have the exact number. We pulled approximately 200,000 records and it gets sent to another vendor, to

that vendor, and that vendor then looks at that population of records and cull it down to approximately 12,000 records that then go through the syntax and operability checks.

I had put in the chat a link to what operability checks are. [inaudible] the checks against those syntax requirements or in the RAA. After those checks, I completed both the syntax and the operability checks are completed. Any potentially inaccurate records are then flagged and then sent over to compliance.

OWEN SMIGELSKI:

Then, once the data file is received from us, compliance, we import it into our complaint processing system and then the WHOIS ARS tickets are processed alongside other WHOIS inaccuracy tickets, the individual ticket submission as well as the bulk submissions, and like I said, they're processed the same way as the other WHOIS inaccuracy tickets. The only caveat is other complaints. If we have a question for the reporter, we can follow the reporter and ask for some more information to clarify what the complaint is about. We don't have the option to do that with the ARS, so more often, those would be closed to say incomplete rather than following up with the reporter to get more info. But, other than that, they proceed just like every other WHOIS inaccuracy complaint.

We also, if we do notice any concerns with the data, such as we forward it to a registrar and they come back and they say, "That telephone number is correct, that's our telephone number," which I saw last week, we will actually flag that and provide that feedback to the GDD team so

that they can follow up with either the processes or the vendors, as needed.

SUSAN KAWAGUCHI:

That's really helpful, but I'm still not seeing the disconnect. I think I have a little bit of a glimmer of where the problem might be in my opinion or why these are closed. But, it would be good to see actual samples of this is the one we received, this is the domain name we received, this is the – ARS has said this is not compliant, this is inaccurate. Then, once it gets to you, we validated that. We don't agree with the inaccuracy report anymore. It's accurate now. It would be great to see some samples of those, and not a small sample. I would like to see a thousand records, to see that, and be happy to check those and review those.

I do know that, from personal experience, when reporting an inaccuracy report, I see frequently get pushed back on something I think is pretty obvious and then don't have time to then respond to you again. It's just things have moved on and there's not enough time in the day to redo my own work sometimes.

So, I think that's where the disconnect could be on this, but I still do not agree that it could be 40%. I'm willing to have my mind changed and show some data that I can actually [inaudible] myself, but other than this, I think there's an issue here that we need to dig out more.

ALAN GREENBERG:

Let's go through the queue and then decide how to proceed. We're clearly not going to clarify this completely today. Volker?

VOLKER GREIMANN:

Yes. Thank you. Maguy and Owen, first of all, thank you very much for not forwarding all the complaints that the ARS provides to us because that would probably overload our queue as well and take away time that we could deal with actual complaints. So, thanks for doing those background checks and making sure that the complaints are still accurate and valid, although I could think that the ARS could just do another query before they hand the data over and see if the data is unchanged, reducing your work a little bit.

I also am not necessarily of the opinion that seeing a 40% closure rate is necessarily a problem. That's just numbers that are there. If you could provide some more information of how the – what the reasoning could be behind these numbers are, convince those that remain unconvinced that these numbers are actually correct. That would be helpful. But, I'm find accepting them as they are at the moment. Thank you.

ALAN GREENBERG:

Thank you, Volker. Looking at the numbers on the screen – and I understand those are from our report, [inaudible] our report and not something that has explicitly been published. But, what I see there is the number sample records, the number of tickets created, and then the number of tickets that went to first or second notice. I assume the difference between those two numbers is the number that are closed, that are closed without contacting the registrar. Is that correct, Maguy or Owen?

MAGUY SERAD: Yes, Alan.

ALAN GREENBERG: Okay, thank you. So, if you actually do the percentages, you find out that for [inaudible] samples, between 42 and 51% tickets are issued, and therefore between 49 and 58% there are no tickets issued. So, the numbers that are closed, in fact, are even larger than the 40%. And the rest of the numbers below, the order is a little bit confusing, but we've put it into – some of those are things that are closed prior to issuing the notice of the registrar and some of them are reasons why it was closed before, so it's a little bit confusing.

I have a suggestion going forward. I'm going to be in Los Angeles for the EPDP meeting in the end of September. I know Stephanie will probably be there. I don't think anyone else in this group is there, however. Does it make a lot of sense for me to spend an extra day to spend some time with compliance staff and perhaps the ARS staff and try to understand more exactly how these numbers are going? Susan, since you're moderately close, maybe you could come up at the same time and the two of us can spend the Thursday, which I think is the 27th of September, at least part of that time talking to compliance. Does that sound like a way going forward, without exchanging an infinite number of e-mails and questions and try to get to the root of this? I'm asking Maguy and Susan.

SUSAN KAWAGUCHI: That works for me. I'm actually in Southern California that week, actually on vacation, but I would be happy to drive over to the office and meet for several hours.

ALAN GREENBERG: Maguy, does that sound something you could agree to? We don't need firm agreement today, but we do soon because I have to make air travel reservations this week.

MAGUY SERAD: I'm not clear what is it we are going to accomplish on this extra day, Alan. We're always happy to meet with you, so we're available to meet. I just want to set the expectation. If we can have a better understanding what is it you're expecting to see, discuss, and look at, because not everything is compliance specific, so it has to start from the beginning. The ARS is a full cycle. We want to make sure we are meeting your expectations. If you can tell us exactly what you're looking for, we're happy to set it up and work with you on it. Yes.

ALAN GREENBERG: Without trying to define it on this call when we have a lot of other things to do, I think it would be a combination of making sure we really understand what the numbers are and what is the subset of what. Second of all, the potential perhaps for looking at a sampling of records to try to understand that. We of course would be willing to sign nondisclosure agreements if that's appropriate.

Alright. Can we tentatively say ... Sorry?

TRANG NGUYEN: Alan, I had a question, if you don't mind.

ALAN GREENBERG: Yes, Trang.

TRANG NGUYEN: I can certainly check with the ARS team to see about availability and we've done, in previous cycles – not the latest one, I don't think, but in previous cycles, we [inaudible] also talk through the methodology for the ARS. So, we can certainly go through another one of those presentations for you and whoever else on the review team could come. That should hopefully provide you with a clear understanding of the methodology that is used for the ARS portion of it, at least the generation of the records to be checked and the checking process themselves. Is that what you're sort of looking for? Is that the understanding of the just the methodology? I'm not sure I understand where the sample records come in.

ALAN GREENBERG: If the methodology has been presented in webinars, we'll do our homework and watch the webinar. I don't think we need to repeat something especially for us. We may have further questions based on that.

TRANG NGUYEN: Sure.

ALAN GREENBERG: I think the problem is those of us who have spent a lot of time with WHOIS records find it rather anomalous that from randomly selected records with no notice for the registrar or registrant, that significant number of them are being corrected, randomly, effectively, in the four or five month window that has occurred.

Now, maybe it's simply that every registration has a one-year renewal and everyone is diligently looking at their information and saying, "Oh, my God, I made a mistake last time." So, the interaction with what the renewal date matters.

But, the numbers to those of us who have played this game for a while seem anomalous and we are trying to understand why.

TRANG NGUYEN: Sure. Yeah. I understand and we're trying to figure out how to help you with that.

ALAN GREENBERG: Moreover, at this point, we are making a recommendation saying between ARS and compliance, they're going to have to look for these kinds of anomalous things and not just pass on the statistics but understand them, and we're trying to make sure that any recommendation we make actually makes some sense.

We have to move on. We're not making a firm commitment to do this right now, but I think we have a willingness of both the ICANN Organization team and a few team members to do this. I don't give up an extra day of my life easily, but I will. We need agreement from the review team, or at least the review team leadership – and I'll deal with Cathrin separately who is not here yet – that we'll put funding in for an extra day in Los Angeles for me and cover any expenses that Susan might have. Does that sound reasonable to anyone? Does that sound unreasonable to anyone? Then, we'll start trying to make detailed arrangements after this meeting.

Any further comments on the section on WHOIS accuracy?

CARLTON SAMUELS: Can I say something, Alan?

ALAN GREENBERG: Yes, please go ahead.

CARLTON SAMUELS: My [inaudible] is this. They tell you what the number of tickets that are closed before the first notice. They give you the reason for the closure. If you look at the numbers across the reasons for the closure, that's where you have [inaudible] which is of interest of me and [inaudible] in cycle five, that you had a [inaudible] cycle four, you say the reason for the first closure was WHOIS data [inaudible] that they can [inaudible] to me [inaudible] five and the reasoning is was the domain not registered was the ticket was processed [inaudible]. Those [inaudible] numbers

[inaudible] I think [inaudible] had reason for the closure. I understand that. The [inaudible].

ALAN GREENBERG: Thank you. I'm not sure that changes our overall position other than to add some clarity as to why we're confused. Lisa, please go ahead.

LISA PHIFER: Thanks, Alan. In trying to reach closure on this section for the upcoming draft report, I wanted to make a suggestion and that is to leave the description of this issue in the report so that the public comment period can allow people to elaborate on their thoughts on the issue but possibly not to put forward a recommendation if you're not comfortable that the recommendation really gets at the issue. And if you're not happy with that suggestion, maybe some clarity around what you'd like to do with the recommendation. Thanks.

ALAN GREENBERG: I'll give my completely off-the-cuff answer and then open it up to anyone else. I would prefer to keep the recommendation, but add a note to it saying due to the lack of clarity over exactly what is happening, the review team is further investigating in parallel with this report being issued. Maguy?

MAGUY SERAD: Thank you, Alan. I think I have a better understanding of what the confusion is about. Let us see what we can do from a compliance

perspective. I think a thousand records as Susan was recommending is a big overwhelming, but let us see because we are in the process of looking at WHOIS ARS records as we continue our work here. I'll ask the team if we can – because it's all manual – if we can take a sample to reflect how do we work through that. As Owen said, a reported issue, no matter what time or when it's [inaudible], before we touch it and forward it, we do a WHOIS lookup and what we can do is show you, let's see. We need to figure out how we can present the data to you, so we can see this is what we received, this is when we looked at, when we started processing it how it looked like that generated this error.

This is all very manual, so let me see what our bandwidth and how between now and September we can put some of this data, at least a sample, so you have a better understanding and [inaudible] understood Susan's concern correctly.

ALAN GREENBERG:

We can talk further offline on this. I'm just worried. We have a very tight time constraint now and we've used up almost a full hour of this call way in excess of what we had allocated timewise, so I think we must move on at this point. Lisa, please.

LISA PHIFER:

Sorry, Alan. That's an old hand.

ALAN GREENBERG:

Okay. In terms of action items, we have a plan to put in place a meeting for after the EPDP meeting in Los Angeles. We'll see what the logistics

detail – look at a little bit later. Alright, back to you, Lisa. Sorry. I made a proposal to keep the recommendation in but put a caveat underneath it. How does the rest of the team feel about that? We have two choices, either pull the recommendation altogether or leave it in saying we’re looking at it, but we are doing further study. Quick show of hands or yeahs or nays. Somebody?

SUSAN KAWAGUCHI: This is Susan saying leave it in.

ALAN GREENBERG: Okay. So, leave it in and we’ll put a caveat in. Lisa and I can worry about the wording if you didn’t capture what I said. Let’s go on to the next item, please. I’ll point out we should have been at minute 27 of the call at this point. We are now at 51.

LISA PHIFER: I think that was the portion of the call that we were hoping to have compliance and GDD join us. Although I think everyone is welcome to stay, that was the end of our questions regarding ARS.

MAGUY SERAD: Thank you, Lisa. We’re going to drop from the call, unless you need us.

ALAN GREENBERG: You’re welcome to stay. You’re welcome to drop. Your call.

MAGUY SERAD: Thank you very much. Bye.

LISA PHIFER: I'll speak to this slide briefly and then maybe ask Susan to elaborate. What's shown on the slide is alternative text proposed by Volker for a recommendation that is currently I think in the objective six section. Volker did recommend a number of editorial changes to the body of the recommendation which I believe Susan incorporated in the draft, but because some of the changes actually affected the recommendation text that we had already agreed on, we wanted to bring that back to the plenary. Susan, did you have anything to add?

SUSAN KAWAGUCHI: Yes. Thank you, Lisa. I think the biggest change is the 15%, but it would be good ... I don't know if we have the latest version that we agreed upon of this recommendation. Did that make it into a slide or not?

LISA PHIFER: No, Susan, but we can pull that up. Would you like it up?

SUSAN KAWAGUCHI: Yeah. It would be good to compare, and to be honest, I didn't review this this morning. Volker is requesting that it was 10% of all gTLD domain registrations [inaudible] data in the registrant field. That

number was 10% that we agreed upon in Brussels and he [inaudible] to 15%, which makes it a higher threshold.

GDD gave us a number of 180 million domain names, so 10% [inaudible] 80,000 for the [inaudible]. I'm not good at math. That's probably a quarter of a million, somewhere in there, at this new level. I think the last sentence, the board should initiate action intended to ensure ... No, maybe not. I'm sorry. I need the other—

ALAN GREENBERG: Susan, if can interrupt.

SUSAN KAWAGUCHI: Sure.

ALAN GREENBERG: 10% is 10% of what number? What is the rough number we talked about, total number of gTLDs?

SUSAN KAWAGUCHI: GDD's number was 180 million.

ALAN GREENBERG: Okay. I'm sorry. That was 180 million. Sorry. I misheard you. Go ahead, please.

SUSAN KAWAGUCHI: Yeah. I'm sort of rambling at this point. So, 15% would be ... I mean, 10% would be 180,000 then of that 180 million. So, that seemed like a sufficient number to me, that if they found that many records without information in it. Now, GDD did point out in the report that actually what they are seeing is a lot less than that, even less than 1%. So, this may not be an issue, but considering they're just taking a sampling of ... And it is a sampling that ... I mean, they have their methodology for this. But, it could be that they are missing a bunch of records that do not have the information. I think they need to do a bigger ... They're looking at 200,000 for their ARS report and coming up with a very low figure. So, it seems to me that it's definitely worth looking at a large number of domain names. But, what does the group feel about changing that from 10% to 15%?

ALAN GREENBERG: Lisa, you have your hand up and then me.

LISA PHIFER: Yeah. I'll just call everyone's attention to the chat pod at lower right where I copied the text of the agreement as previously agreed. I believe the 12-month period was adding during our last plenary, that 10% has been there for two weeks I think. Then, the additional change was the last three lines that you see on the slide, provided that such action does not unduly impact the rights of registrants, etc. Back to you.

ALAN GREENBERG: Yeah. First, on the 15%, we're only looking at records that have an empty registrant field. Is that correct?

LISA PHIFER: Correct.

ALAN GREENBERG: Okay. Do we have any evidence of what we think that number would be? I don't think I've ever seen one, not that I've looked at millions.

LISA PHIFER: Yeah, I haven't either. Actually, I probably have but reported those as inaccurate because didn't understand that they didn't have to, may not have to, comply.

So, in the ARS report which takes from the body of all domain names their sampling, they say this issue is probably less than 1%. But, if you only ... If they did a similar sampling of 2009 registrations or the grandfathered domains which are basically any of those ... I don't think it's a real clear picture where that line is, but you've got a rough line of registered before 2013. If you took a sampling of those and looked to see, then you'd have a better idea of if this was an issue or not because you don't have all of the ones that have to be compliant mixed in. So, I just think it's something they should look at and maybe figure out if it's a problem or not.

ALAN GREENBERG: Okay. The number of gTLDs in 2013 is a number we could establish. I haven't looked it up but I'm sure there's a number somewhere. Let's say it's half of the total 180 inventory. It's probably somewhere in that area, I'm guessing.

LISA PHIFER: No, because 180 million, we specifically asked GDD how many grandfathered domains are there. They came back with 180 million.

ALAN GREENBERG: Okay, sorry.

LISA PHIFER: There's probably ... I can't figure the number right off the top of my head. I can tell you about coms. I can look that up really quick.

ALAN GREENBERG: We know that's about 110 million, 120 million.

LISA PHIFER: [inaudible].

ALAN GREENBERG: No, 130 million maybe.

CARLTON SAMUELS: Can I say something?

ALAN GREENBERG: That number is well-established and easy to find out and I've looked at that recently for reasons I won't go into today. But, it's in the order of 100-something million, a low something. So, we have 300 millions domain, let's say. A little over 50% of them are grandfathered. It's of the total population only 1%, let's say – I think that was the number you gave – does not have registrant data. If all of those are grouped in the grandfathered ones, then it's 2%. That sounds like the number is completely irrelevant, the 10 or 15%.

LISA PHIFER: So, the verified report says there's 339 million over across all TLDs. Now, what I'm not reading right now is to find out ... I don't think they're talking about ccTLDs.

ALAN GREENBERG: No, no. It's just the gTLDs.

LISA PHIFER: It sounds like Carlton is trying to ...

ALAN GREENBERG: Well, Volker had his hand up first. Volker and then Carlton.

VOLKER GREIMANN:

Yeah. Just to explain what the reasoning was to make 15% rather than 10%. I looked at the graph decline in grandfathered domains through the ARS studies over the past years and I found that leaving it at 10% would not necessarily give us a number that would ultimately be too far off from what the natural progression would be, whereas at 15%, we would be looking at a number that would indicate that the process has been slowing down in the past, and therefore further action might be necessary to bring those domain names under the same umbrella, under the same policy umbrella. I think that was the main reasoning for raising that number when I looked at the numbers that we had.

Even though we're not there yet, I would just like to go to a bit of detail on the last three lines because Carlton also [inaudible] remark by e-mail. I do not want this to be understood in a way to [inaudible] in any way any recommendations we make. I just would like to prevent some of the effects that the 2013 RAA new requirements had on some registrants. When faced with a binary decision of either suspend or delete in such domain names where updates were not provided in a very short amount of time, that could cause – had caused – a lot of harm with registrants. Therefore, I would like to see a bit more options, presentable, what could happen to such domain names that are found to be deficient that would not have these binary options of suspending or deleting the domain names in case no action was taken.

In many cases, these are very old registrations and the registrant has no communication with the registrar other than paying their invoices once a month and ignore everything else the registrar sends because everything is working fine and they have no expectation that anything would be changing. That's the main drive behind that. Also, having

experienced the 2013 RAA negotiations where we were basically forced to accept this binary option in the first place, basically with the reasoning that this was what the first review team has demanded and ICANN was in no position to change the recommendation or to deviate from the intent.

So, I would just like to see more options by using that language—

ALAN GREENBERG:

Volker, can I ask you to wrap up? We're really running out of time.

VOLKER GREIMANN:

I was just wrapping up. By that language, I feel that I can give more options when thinking about what to do and how to implement this recommendation. Thank you.

ALAN GREENBERG:

Thank you. We don't have a timer in this Adobe Connect room, but I ask people please to be brief. But, I have to respond to Volker. Volker, you were talking about records that are deficient. This recommendation is talking about records that do not have a registrant field. They're very different things. I think we need clarity what it is we're talking about because I think you're talking about something different than what Susan has in her original recommendation.

VOLKER GREIMANN: Well, the recommendation says that [lack] data in the registrant field. To me, that does not say that it has to lack all data. It just could lack certain parts of the data. If it's just an e-mail address, it's still lacking data. So, that's what I was [inaudible].

ALAN GREENBERG: Okay. Susan, for clarity, are you talking about the registrant name, data, or any of the registrant data?

SUSAN KAWAGUCHI: I am talking about the 2009 RAA. That's a good point. We could clarify exactly what that is.

ALAN GREENBERG: Okay. So, you're talking about the grandfathering that's done in the 2013, using 2009, the differences there. So, it's talking about more than just the registrant name. Carlton?

CARLTON SAMUELS: Yes. Thank you, Alan. We're talking about [inaudible] registrant name. If we agree that it's in the policy to have its single look and feel for WHOIS records, then it makes sense for us to say let us have a position where regardless of what year you had this domain name registered, you must have one look [inaudible] records. Volker has been saying that that number which that is the result of the different [inaudible] has been going down and down year and year. As was intended, was to say let's put a date when we would wish to see all of the records [inaudible].

To me, having more than that is [inaudible]. So, that's one point [inaudible]. I really like Volker's last three lines [inaudible] too much room and leeway for somebody [inaudible]. I just think we should say we should have a single look and feel for WHOIS records by this date and that date.

ALAN GREENBERG:

Thank you, Carlton. I see Lisa has her hand up. I'm going to put a suggestion on the table akin to the last one. I suggest that we revert back to the previous version with 10% and excluding the terms that I will not describe the way Carlton did at the end, and add a statement saying we are still debating what the threshold should be and attempting to understand impact on registrant rights. Lisa?

LISA PHIFER:

Thank you, Alan. That's essentially what I was going to suggest with the exception that I was going to suggest we put in 15% just to sort of allow for compromise. But, I think what you suggest—

ALAN GREENBERG:

I consider that a friendly amendment. Can we agree on that? So, we're making it clear this is not a firm recommendation. We want to understand the impact and we want to settle the number. I still have Carlton and Volker's hands up. Do we have general agreement to move ahead under that proviso? Does anyone feel exceedingly uncomfortable?

Hearing nothing, we have a decision. Let's move on to the next item, please.

The next one is mine. It is the bylaw recommendation. Let me put some words into the chat that I came up with as, again, leaving a recommendation but adding a note to it. Sorry, I can't seem to hit enter on my computer at the moment. Lisa, I'm going to put this in the leadership Skype chat. It doesn't seem to work if I paste it into the chat box for some reason.

LISA PHIFER: Go ahead. We'll copy it.

ALAN GREENBERG: Yeah, I'm trying to find the leadership Skype chat.

LISA PHIFER: Or just chat it to me. I'll copy it in.

ALAN GREENBERG: Oh, here it is. There you go. I'll read it while Lisa's copying. The review team is still debating whether a new bylaw requirement should be inserted requiring the review of privacy and data transfer issues in place of the relatively weaker requirement to review safeguarding of registrant data. Community input is welcome.

My rationale for that is I believe we should never have made reference to the OECD guidelines. That was the suggestion of one person in the

CCWG accountability. It was not particularly supported, but no one had the energy to fight it. I believe referencing a relatively old document, even if it's periodically amended, in light of a world where we now have real, live regulations and laws is not the appropriate reference point. I think it's very reasonable that the review bylaws talk about the issue. I think safeguarding registrant data meets that, but if we want something more specific, then I suggest that we replace the OECD one with a more generic one and not reference the OECD documents at all, specifically. I open the floor. Volker was the one who objected to removing the OECD reference. Does the lack of hands mean we want to make some sort of statement at all or leave it as it is today without the caveat? Volker, please go ahead.

VOLKER GREIMANN:

Yeah. So, I understand exactly what your issues with this and I'm not sure I disagree in principle. However, I feel that removing this only requirements to take into the data protection and privacy in the bylaws [inaudible] would be the wrong move to make. But I don't know what exactly to replace it with. So, I'd rather see it stay in and then be removed in its entirety and leave future generations to debate whether to include a new reference. I'd rather see this replaced with language that can go forward into the future but makes the same provisions [inaudible] same ideas at heart.

I agree that the OECD reference can be struck. However, the guidelines on the protection and privacy [inaudible] data in general should stay and there should just be something more up to date to replace it with.

ALAN GREENBERG: Well, but that's essentially what I'm saying in my caveat, that we will add a replacement clause or recommend that a replacement clause be written in the bylaws. We could either try to craft that or simply say what it should contain and let bylaw drafters craft it. We have a choice that we can make between now and December. But, we're saying we do want [inaudible], but it shouldn't be a specific reference to the OECD ones.

VOLKER GREIMANN: Okay. I'm happy with that.

ALAN GREENBERG: Okay. Let's go ahead, then. We have agreement. Stephanie had her hand up.

STEPHANIE PERRIN: Hello. Can you hear me?

ALAN GREENBERG: We can.

STEPHANIE PERRIN: I really think that leaving it vague is just going to solicit comments that we aren't going to be able to effectively deal with. The reason that the OECD reference is in there, I presume, is because there is a reference

historically in the documentation on WHOIS. The US government has always put in a clause about the OECD guidelines, but has not addressed data protection law as it exists.

So, I think that perpetuating this is unfortunate and I think we could probably come up with language that would basically explain that there have been language in the bylaws regarding reference to the OECD, but given all [inaudible] caveats we include in the report about the reality of compliance with GDPR, this seems to be in need of replacement with references to data protection law.

While the OECD guidelines were updated in 2013, I believe, the Council of Europe's binding [inaudible] 108 has more recently been updated and that's more an international instrument than the OECD guidelines.

What I'm basically saying is I think we open ourselves up to getting all kinds of comments which we won't be able to deal with. We should sort of close it down by providing language.

ALAN GREENBERG:

Well, I don't think we're going to provide language for this interim report. We don't have the time to do that and I don't think we have the time to debate it. I'm happy to say we will put language in. To be clear, the Affirmation of Commitments made no reference to the OECD guidelines. That was added specifically during the CCWG accountability.

So, I don't see a way forward other than to say we are still looking at it. I don't mind saying at this point we're still debating, but we intend to replace this with ... That doesn't make a lot of sense, because in that

case ... Does still debating explain why we have a recommendation? We have a placeholder recommendation. If people prefer, we can change this to say we plan to remove the OECD and replace it with a more specific – rather, a comparable requirement that does not make reference to specific changeable standard. If you're happy with that, we can certainly craft some words like that. Essentially, take out the word debating and say we will replace it. Does that make you happier?

STEPHANIE PERRIN:

It makes me slightly happier, but I still think you're going to get a lot of serious non-workable suggestions. For instance – it has to be carefully worded because you compel governments to pass laws [inaudible] language around the convention because convention requires law. You cannot tell governments to comply with a law that doesn't apply in their jurisdiction.

ALAN GREENBERG:

Nor can we ensure that we have uniform laws around the world.

STEPHANIE PERRIN:

Exactly. This is why I think we're going to get a whole lot of, "Oh, you should do this, you should do that," and nobody understands exactly how difficult that is. I mean, I will propose something and send it to you because I think weasel words are important here. We've got to make sure that we recognize that this is very lame and needs to be replaced, but that the problem is a real one. So, I'll let you get on with this.

ALAN GREENBERG: Okay. But, there's no way we can come to an agreement on the words and make sure it passes legal muster and I don't think we're trying to draft the bylaw here. I think we're trying to say there must be a replacement which is not always specific but to note the same intent.

STEPHANIE PERRIN: Yes, I'm not trying to [inaudible] bylaw either.

CARLTON SAMUELS: It's not OECD specific, but it can also [inaudible] principle.

ALAN GREENBERG: Okay. We need to make a decision. We either go ahead with what is there now saying we are withdrawing it and debating replacing it or we will replace. I sense the tone of this group is that we go with we will replace. I have Lisa, if you're trying to offer an answer. Sorry, I just noticed your hand is up.

LISA PHIFER: Yes, thanks, Alan. I put in the chat at the lower right the actual recommendation that you proposed, Alan, which was to remove the bylaw section. I think what you're suggesting now is that be reworded to replace and then to add the explanation that you suggested.

ALAN GREENBERG: That's correct. That is we're going to replace it. We are not providing the specific draft recommendation but the intent of the

recommendation will be. Or alternatively, we can make a recommendation that it be replaced and a footnote saying the details still to be decided. Does that make people even more comfortable? Stephanie?

CARLTON SAMUELS: [inaudible].

ALAN GREENBERG: I'm not exactly sure I know what that means, Carlton.

CARLTON SAMUELS: We say that [inaudible] OECD guidelines are referenced [inaudible] replaced with something that is more [inaudible] lines but it's certainly [inaudible].

ALAN GREENBERG: Okay. Stephanie says she's going to come up with language. Lisa points out we need language now. Let me try to craft something on the fly, something I absolutely hate doing. We are going to eliminate the safeguarding requirement. We will eliminate the OECD requirement, the OECD clause in the bylaws, and replace the OECD clause in the bylaws with a more generic requirement that preserves the intent but does not reference specific potentially outdated guidelines going forward. Stephanie, can you live with something like that? I see Stephanie's hand. I don't see Stephanie typing. Erika is saying we can leave the clause in there. I would really prefer not to have the ICANN bylaws refer

to this specific guideline. That only causes confusion when someone may interpret it later on in a way that that points too close to those and not to the regulations and laws that are around the world that we have to factor on.

I will come up with some words after this call. If anyone has any strong objection to them, please suggest replacement words. Otherwise, they will go into the report for approval next Monday. That's an action item for me. I will be referring to the recording of this call, so I would appreciate it if staff try to make that available as quickly as possible.

Next item, law enforcement needs. We don't have Thomas here. We don't have Cathrin here unless she's on the bridge. Lisa, can you lead us through, please?

LISA PHIFER:

Sure. Just to point out in our last plenary call – and actually the preceding one – we had some discussion about these two recommendations that Cathrin had formulated. Two weeks ago they were split into two recommendations. In our last plenary call, I think most of the conversation or concern revolved around the very last bit of [inaudible] which was how to refer to cybersecurity professionals. So, the language that's reflected here on the screen that the ICANN board should resolve that surveys or studies be conducted by ICANN – to be conducted by ICANN – also extend to other RDS WHOIS users, such as cybersecurity professionals working with law enforcement. We need to actually decide if we have consensus on that or any objections on that at this point.

ALAN GREENBERG:

Stephanie, your hand is up. I don't know if it's a new one or not. I don't think it is. My only concern with this is the cybersecurity professionals working with law enforcement is the example, but the generic one is other WHOIS users which I think is far too wide. I don't think the intent was to widen it that large. I know Cathrin did say on a previous call that it might well include things like intellectual property people trying to enforce rights, but completely any other user I find a little bit too wide. I'd be happy to say cybersecurity professionals, knowing that is not a defined term right now, and others working with law enforcement. Volker, please go ahead.

VOLKER GREIMANN:

Thanks, Alan. I'm not very happy with leaving an undefined term in that because somebody will then define it and run with that definition, so I'd rather have a term that's very, very closely framed. If we don't even know whom we want to benefit from this, then why are we making the recommendation in the first place is my thinking. Either we know who we want to benefit from this or we don't, and in that case, we have no business making the recommendation.

One further possible added, in the first recommendation part, I would frame the word need of law enforcement as legitimate need of law enforcement because law enforcement has a lot of needs but not all of them are legitimate and we should only be [inaudible]. Okay, that's it.

ALAN GREENBERG:

Thank you. I'm not sure we could define legitimate, but it is in the bylaws right now so I'm happy to use it. I would suggest for [LE2] that we say ICANN board should resolve that surveys and/or studies be conducted by the [inaudible] other RDS WHOIS users such as ... Right now, working with law enforcement is not clear what it modifies. Is it modifying law enforcement but there may be others that we're extending it to that do not work with law enforcement or is extended to others working with law enforcement such as cybersecurity professionals? I would suggest the latter is what we want to say. That is, extend to other RDS WHOIS users working with law enforcement such as cybersecurity professionals.

Remember, we are not granting rights here. We are simply saying extend the survey. So, I don't think we need to be worried about exactly how it's defined. It will have to be defined in such a way so the survey has meaning. But, I'm not sure it matters exactly how it's defined. That's for the interpretation of the survey. So, I suggest we invert the two clauses. That is, put law enforcement modifying RDS WHOIS users and then such as cybersecurity professionals and leave it be. Is that sufficiently innocuous?

CARLTON SAMUELS:

[Yeah, that will work].

ALAN GREENBERG:

It may not be as wide a group as Cathrin and her colleagues want to extend it to. It may be too wide for some, but it's only a survey we're talking about. Volker, please go ahead.

VOLKER GREIMANN: Just a brief comment. As long as we are making it clear in the reasoning that this is just a survey and no matter what the survey comes up with we are not recommending that any further rights or any further decisions be based on this recommendation or any [inaudible] intent of this recommendation other than making a [survey] should follow after that survey.

ALAN GREENBERG: Volker, we're not saying what to do with it. I would like to think if we go to the trouble of paying for a survey, we may actually use the results. But, I don't think we're predicting how they should be used or what the impact should be used. I think that's the debate that has to be made afterwards.

Remember, in the case of Europe, we're not setting the rules. The data commissioners are. All we can do is propose.

CARLTON SAMUELS: I think we could even be clear in saying that the survey should be a basis for a next review team or a subsequent review team. I think I could live with that. So, we clearly say what that survey is to be used for and not leave it up for third parties to make [inaudible] of what they think it should be used for. I think [inaudible] have a tendency to become, [inaudible] of their own.

ALAN GREENBERG: I think it's going to be used for making decisions, whether it's by a review team five years from now or some other decision that has to be made three years from now as smoke starts to clear. I don't think we can require someone to ignore the results. But, I don't think our intent is anything other than to make informed decisions. I think we have a general agreement here and we may need to clarify the words of why we're doing this if it's not already clear there. Lisa, you want to get in and I see you want to return to the OECD.

LISA PHIFER: I wanted to get into ... Others are talking about OECD in chat, but I wanted to get in and show you – and I didn't quite do it – in chat, the actual language of the recommendation that I'd like to call for consensus on, based on what I think you said.

ALAN GREENBERG: Please go ahead.

LISA PHIFER: If you could confirm that's what you wanted and then we'll call for objections.

ALAN GREENBERG: I will read it as I'm confirming or as I'm thinking about it. The ICANN board should resolve that such surveys and/or studies be conducted by ICANN also be extended to other RDS users working with law

enforcement such as cybersecurity professionals. Yes, that is what I was talking about for this one.

LISA PHIFER: Do we have any objections to that language?

CARLTON SAMUELS: No objection, just not very comfortable.

ALAN GREENBERG: Stephanie says why should we pay for something for cybersecurity professionals? Because we're the custodian of WHOIS. That's why we're doing all of this. We have people typing. Not very comfortable with what term, Erika?

LISA PHIFER: She said cybersecurity professional is such a broad term. It sounds like we have Erika, Stephanie, and Volker somewhat uncomfortable with that term.

ALAN GREENBERG: Can someone come up with a better term or simply put a caveat saying this will have to be defined to community comfort?

CARLTON SAMUELS: We [inaudible] working with law enforcement.

ALAN GREENBERG: Carlton, I did not make out what you said.

CARLTON SAMUELS: I said that the wording that we [inaudible] says that they are those that are working with law enforcement, a smaller group, [inaudible].

ALAN GREENBERG: Stephanie, is that a new hand?

STEPHANIE PERRIN: Hello? Can you hear me?

ALAN GREENBERG: We can and I'll point out we are destined at this point to go on for at least two-and-a-half hours.

STEPHANIE PERRIN: I just want to register on the record here that I'm not really comfortable with the way we have worded this. It really sounds as if we are recommending that the ICANN board do surveys that are designed to solve the data requirements of third parties. And we are focused on cybersecurity professionals and law enforcement. But, really, law enforcement needs to do its own survey of what data it needs to [inaudible], not ICANN. We're not in that business. It gets even more attenuated when you start doing it for independent companies. Why on

Earth should we do surveys for a company like Semantic, which is basically what you're doing if you are responding to APWG request for data analysis. I'm just phrasing it. I think it's outside of the remit of ICANN.

ALAN GREENBERG: Are you suggesting that us doing surveys of law enforcement is outside the remit of ICANN?

STEPHANIE PERRIN: I'm suggesting that the way you word this is extremely important. If it sounds like they are coming to you saying, "We want you to do this survey on our needs," then you are responding to third-party requests to use ICANN public interest funds for third parties.

ALAN GREENBERG: We are doing this work because the bylaws require us to assess whether we are meeting the needs of law enforcement with regard to RDS. Law enforcement has said they work closely with a number of people and we should consider – and I'm happy to change the recommendation that ICANN board should consider extending surveys as opposed to resolve to a wider community that works closely with law enforcement.

STEPHANIE PERRIN: I think it would be better to say that the board should collaborate with RDS users such as law enforcement and cybersecurity professionals to determine what data needs to be surveyed.

ALAN GREENBERG: I'm not sure I could even parse that. Lisa, please go ahead.

STEPHANIE PERRIN: Well, I can type it into the chat.

LISA PHIFER: Thank you, Alan. I just typed into the chat, but I think there is some ambiguity about what such surveys or studies is referring to. Stephanie is interpreting that to mean surveys or studies about data needs and I believe that intention was that it be a reference back to [LE1] which was surveys to inform future assessment on the effectiveness of RDS WHOIS and meeting those needs.

ALAN GREENBERG: And I believe we can soften it to say the board should consider.

CARLTON SAMUELS: I [inaudible] of information [inaudible] refers to those surveys and [inaudible] groups. That's what this is about.

ALAN GREENBERG: Okay. And Erika is saying in the chat that she would remove the reference to cybersecurity professionals. That is, just those working with law enforcement and not be specific as to who they are. I can live with that.

CARLTON SAMUELS: I can live with that.

ALAN GREENBERG: Lisa, can you do something else on the fly?

LISA PHIFER: Yes. Give me just a second. Okay. I just put something in chat.

ALAN GREENBERG: ICANN board should consider extending such surveys and/or studies to other RDS WHOIS users working with law enforcement. I can accept that. Stephanie, is that a new hand? Who the board collaborates with to make a decision I think is up to the board. I don't think we can dictate that. I can certainly live with, go with, adding the reference to the effectiveness of WHOIS needs, which is repetitive. Volker?

CARLTON SAMUELS: It's [inaudible]. We don't need to repeat that in [area] two.

ALAN GREENBERG: Right we can make a reference to [LE1]. Volker, please.

VOLKER GREIMANN: I think what you just said, even though you think it's repetitive, I think that provides some of the clarity that I'm still missing. By referencing that any such survey should [inaudible] focus on the needs of these law enforcement agencies that we are trying to empower, that we are trying to see if their needs are being met. That makes I think the difference between me being very uncomfortable with being not able to [inaudible]. I think that addition is what makes a big difference, to me at least. Otherwise, I'm not willing to [inaudible], but that would be helpful.

ALAN GREENBERG: Okay. I'm moderately happy with what Lisa has. I would make one modification [inaudible] the ICANN board should consider conducting and extending such surveys. Right now, we're not saying the board should conduct surveys at all and the conducting was the operative verb in [LE2] before. Should consider conducting and extending such surveys and/or studies as described in [LE1] to other RDS WHOIS users working with law enforcement. Can we live with that? I didn't say it's perfect. This is a draft report.

CARLTON SAMUELS: I can live with it.

ALAN GREENBERG: Stephanie says we should avoid recommending that ICANN continue to spend money on surveys for law enforcement. Stephanie, as long as it's

in the bylaws, a survey is a valid way of doing things and that's how the review team chose to do this. I think we've gotten agreement from everyone except Stephanie. Is that correct?

CARLTON SAMUELS: [inaudible] law enforcement [inaudible] question.

ALAN GREENBERG: This review team has gone forward and done a survey and we believe it provides valid information. I don't think we can go back with that. Stephanie, one last comment. At this point, I think we have agreement from everyone. You're, of course, welcome to submit a comment to this when we publish the draft report or be silent and do it going forward.

Okay. I think we have closure here, assuming we capture the very last version of it. That is what Lisa posted. Okay, and you modified that to be conducting. Thank you. Next item, Lisa.

LISA PHIFER: Thank you whoever is advancing the slides. I think that brings us to strategic priority. The reason for putting up the strategic priority recommendation [inaudible] reconfirm that we had full agreement on this and to raise some points that Cathrin had. Unfortunately, Cathrin is not with us. Can you advance one slide, please? There we go.

Cathrin attempted to address the points that Stephanie raised on our last call or perhaps it was ... Yes, it was our last call. These two points that had been raised. I guess I would suggest, given that Cathrin is not

with us, that if Stephanie still has these concerns or others share them, that you try to address these points in your own comments and edits on this section which we will hopefully finalize on our next call.

ALAN GREENBERG:

Okay. Two issues listed, if I could read them. The issue of how to criticize implementation of recommendations which may have been impossible to measure from the start. There is only one recommendation which [would] claim to be impossible to implement. I'm not quite sure what impossible to measure is. And number two is how do we want to deal with the previous review team's recommendations? My recollection from the last face-to-face that we would clarify somewhere they were not superseded by the [present] report, but I may be wrong.

To the extent that ICANN chooses to continue to implement any previous recommendation, that is their call. Officially, ICANN has said they're all implemented and it's a done deal. I presume on things like ARS they will continue to do it because it's now become part of business as usual until they decide, or someone decides, that it's not needed anymore.

I believe to the extent that we believe a recommendation was not implemented, if we expect them to continue work on that and do it further, then I believe we need new recommendations. An example of that is the one that we're doing on outreach saying you did a really nice job of rewriting all this. Now do it again. And by the way, integrate it well into the rest of the rest of the stuff which you didn't do well last

time. I do not believe that implicit in everything we're doing is the full set of the last 16 recommendations. Certainly, based on how previous second review teams and ATRT is the only such example, they did not presume that the previous recommendations were still operable other than to the extent that they created new standing procedures or processes.

LISA PHIFER: Alan, this is Lisa, if I might.

ALAN GREENBERG: Please.

LISA PHIFER: I believe that, although you could ask this question more broadly, I believe the specific question was in reference to the strategic priority recommendations and that in our face-to-face we did decide that we wanted to reiterate that those recommendations still stand, that they are ongoing, even the ones that were completed are ongoing and then offer additional recommendations and that probably wasn't stated that clearly in the draft.

ALAN GREENBERG: If the existing recommendations do not imply that ... We're basically saying they did not make it a strategic priority and I think our new recommendations reinforce that. So, I think we're essentially repeating the last recommendation to make it a strategic priority but providing

more guidance. Are we not? I don't have the recommendations in front of me.

LISA PHIFER: I believe that was the intent, Alan. I think what Cathrin was pointing out is it doesn't state that clearly in the recommendation section.

ALAN GREENBERG: Is it possible to pull those recommendations up quickly?

LISA PHIFER: Sure.

ALAN GREENBERG: In the chat, Stephanie is saying the gist of her argument, we should avoid recommendations that cannot be measured. We should avoid declaring something is implemented if we cannot measure it. I think that's a nice idea. I'm not sure we can guarantee that in all cases that everything is [metrifiable]. Although the concept of SMART recommendations says everything should be measurable.

LISA PHIFER: The recommendations from strategic priority are on the screen now or one, two, and three.

ALAN GREENBERG:

Okay. The ICANN board should put in place a forward-looking mechanism to monitor possible impacts of RDS from a legislative and policy point of view. To support this mechanism, the board should instruct the ICANN Organization to assign responsibility and the ICANN board should update the charter of the working group. What about if we take recommendation number one to further the treatment of RDS WHOIS as strategic and ICANN, the board should? Does that work? I see Erika typing. No one else has anything. Erika doesn't understand what I'm saying.

The comment was are we saying in recommendations one, two, and three of strategic priority that we are reiterating that this should be a strategic priority? Our analysis of the last one was they did not make it a strategic priority and it was unclear to some people whether we still wanted that requirement to stand because a past recommendation is not implicitly reiterated by us. So, I was trying to do that by saying recommendation number one is to further implementing RDS as a strategic priority in ICANN, which essentially says we are agreeing with the first recommendation. It should be a strategic priority. And continue with the sentence "the board should put in place". Erika agrees. I see no negative comments, if we could make the change to [R1.1] to that extent. Lisa, have you captured that?

LISA PHIFER:

I can put in text in the chat that would be a clause that would begin recommendation [R1.1].

ALAN GREENBERG: How about to further RDS, ensuring that RDS is a strategic priority.

LISA PHIFER: Is that what you wanted, Alan?

ALAN GREENBERG: I think that's identical to what you had. I'm just trying to make it a little bit clearer in language. I'm not sure to further RDS as a strategic priority. I'm just saying to further ensure that [RDS] is treated as a strategic priority. I'm going for grade five language.

LISA PHIFER: Alright. I think I might have captured that this time.

ALAN GREENBERG: And Stephanie says further is not very precise. I think it reads well by just eliminating the word further. Okay, Lisa, what you had minus the word further. We're going with it. Next item. According to our time table, we are now at 67 minutes and in fact we're at 110 minutes. So, we have ten minutes to do the next 53 minutes of work.

LISA PHIFER: The reason that we picked out common interface to display here is, as Volker knows, he had to drop off the previous plenary call before we were able to [inaudible] this item. So, Volker, I'll give you the floor to introduce the recommendation and then we'll call for any changes or objections to it.

ALAN GREENBERG: Do we still have Volker with us?

VOLKER GREIMANN: Yes. I think it's mainly unchanged from what we had before. I'm just not seeing the differences at the moment. It's been a week already. I could just read through it.

LISA PHIFER: We actually never called for consensus on this in the past several weeks. It just kept on not being the recommendation that we got to.

ALAN GREENBERG: Then let's ask everyone to read it and does anyone have a problem with it?

VOLKER GREIMANN: Okay. So, just as a background while you're reading, if you can turn off my voice, this is mainly the question of why there is no data on the request failures for the common interface and we wanted to change that, make sure that there is data that future review teams have more data available to see why it [inaudible] and what the underlying reasons for that is and thereby allowing future review teams or other groups to figure out how to address these issues or if there are ... If these issues are actually issues or just in between failures that are [inaudible] in the system.

ALAN GREENBERG: Essentially, we're saying instrument the common WHOIS interface and make use of the results you collect.

VOLKER GREIMANN: Exactly. Gather data on the effectiveness of the interface and make sure that you capture failures of the interface to deliver the expected result of the user and try to provide more background on why these failures occur without making any judgment on whether these failures are legitimate or what the cost of them are, as in [inaudible] issue or not. Just measure the data.

ALAN GREENBERG: I think this is clear enough as it is. We all have the ability to refine it going forward. I think all we're saying is this should be done intelligently and information used to make it better, which is what I would have hoped would have been done to begin with. Okay, done. We've now made up three minutes.

Next one, executive summary. We have 15 minutes on that. I hope it will not take that. As a bit of explanation, that was drafted by me, reviewed by Susan, reviewed initially by Lisa who made a number of comments which caused a rewrite, and among other things, shortened the history section significantly and then took my revised version and made a very large number of edits on it, most of which replaced the word WHOIS with RDS (WHOIS) or something akin to that and went for standardized capitalization of the word review team. Lisa made a small

number of substantive edits, all of which are incorporated in the version you've seen. I'm halfway through going through her edits and I have made a couple of non-substantive changes along the way. The only substantive one I've made so far is I realized that the rationale we gave for not doing the OECD study in the terms of reference was not exactly what we said in the executive summary and I brought it into line, but that's just bring it into line with what's already in the terms of reference. There may be one or two other minor changes and we still need to make sure that what is reported in the executive summary in terms of fully implemented, partially implemented, not implemented matches whatever is in the text.

Other than that, I think it's pretty close to go. And I see Lisa has her hand up. I would ask each rapporteur, however, to look at the summary that is in the executive summary and does that capture as well as one or two sentences can capture what it is that this section has done. Lisa? Old hand?

LISA PHIFER:

It was actually an old hand, but just to reiterate. So, we're on the first page of the executive summary, but if I advance to the summary findings which begin at the bottom of what is now displayed as page six and continues on to page seven and eight, that is what Alan is asking every rapporteur. Look at your particular paragraph, make sure you're comfortable that that accurately in one paragraph only summarizes the gist of your issues, findings, issues, and recommendations.

ALAN GREENBERG: Yeah. It is not trying to replicate everything you found, but just trying to give a gut overview of where we are. And of course, this will be subject to a very thorough review, much more thorough than this one in the final paper because then it must be accurate here if accuracy is [inaudible]. Any further comments? Stephanie, to be clear, you suggested comment language for this executive summary or for a suggested OECD recommendation?

LISA PHIFER: Alan, I've copied the block I believe Stephanie is referring to in chat. It was alternative wording for the OECD, the bylaws change.

ALAN GREENBERG: The review team notes the OECD guidelines, while remaining relevant as a set of principles, are not useful as a reference point in this particular context, particularly when the ... Given the focus of GDPR, we recommend the bylaws be examined and a suitable clause created that requires compliance with applicable data protection and best practices, in particular data transfers must safeguard registrant data. I will take that and integrate it into the section as best I can. Note that as an action item for me, please. I've heard no negative comments on the executive summary. Please review your section and make sure it accurately reflects. If it doesn't accurately reflect, please suggest a replacement sentence or two, but keep the length comparable to what is there now and we'll proceed with the next section.

Remember, we must have closure on this report at the next meeting. So, anything you're going to send that is altering anything that's in the report must be done within the next day or two.

The next one is any objections, edits, comments, submitted on the mailing list? Lisa?

LISA PHIFER:

What you see in front of you is actually just a summary of the list of sections and the number of recommendations at this point. I would like to point out to you, although there is a final version of each subgroup report in that subgroup section, at this point, please direct all of your review and comments against the consolidated draft report so that we're all working against the same set of language.

As you can see, everything at this point has been submitted. This, unfortunately, [inaudible] update. That section of compliance was submitted as well. We do have a couple of objections still on record, the one on data accuracy. Now we have, from today's discussion, one or more on law enforcement needs and then an objection on the compliance language from Volker's proposed text. I'm not sure we still have an actual objection there, Volker. Are you still with us? Can you clarify? Do you still have an objection to the compliance recommend on grandfathering?

ALAN GREENBERG:

I believe the status was we were reverting to the previous one with a note saying we are looking at it and soliciting comments.

LISA PHIFER: Right. Correct. I just wanted to know if Volker still had an objection, even given that. I'm not sure he's still with it.

CARLTON SAMUELS: No, Volker left. He said he had to drop off.

LISA PHIFER: Right. He must still have AC open. So, we'll still continue holding that objection until we get his confirmation. Then, just to point out that our goal for our next plenary call is to actually approve all these sections you see [inaudible] column. We don't have approval by the full review team, but that is what we're striving for or I should say during our next plenary call.

That brings us to the roadmap. The roadmap has us all raising any final comments or edits on this draft report. Of course, this is still a draft report that would go for public comments, so there will still be an opportunity for the full team to tighten up language and to address public comments and [inaudible] comes in November and December timeframe. But, by this Friday, you should raise any comments that you have, any edits that you have, for the full review team to see over the weekend.

Then, in our next plenary call ... I should say over the weekend at the very latest. Our plenary call is to actually address those comments and edits and [inaudible] the report. Alan, do you have anything you want to add?

ALAN GREENBERG: Only that if you cannot be on that call and you are planning to not agree to everything – that is, to ensure that we are recording whether we have full consensus or not for every recommendation or every section. If you are not going to be on the call and believe you have an objection to full consensus, you must make that known ahead of time. We will record partial consensus if necessary, but we cannot take it after the call. Lisa, back to you.

LISA PHIFER: Actually, I think I'm returning it to Alice or Jean-Baptiste to read out our AOB and action items.

JEAN-BAPTISTE DEROULEZ: Thank you, Lisa, and [inaudible] confirmation that the [inaudible] from the 10th to the 12th of December in Brussels.

ALAN GREENBERG: And does constituency travel know about that yet?

JEAN-BAPTISTE DEROULEZ: Yes, they've been informed.

ALAN GREENBERG: Okay.

JEAN-BAPTISTE DEROULEZ: [inaudible] move ahead?

ALAN GREENBERG: Yes, please.

JEAN-BAPTISTE DEROULEZ: Thank you, Alan. So, starting with the data accuracy. There was an agreement to keep recommendation 5.1 as is, leaders to discuss the location of [inaudible] for a potential meeting [inaudible] for the EPDP meeting [inaudible] compliance.

ICANN compliance to look into possibility of providing samples and Alan to produce a note framing recommendation 5.1.

ALAN GREENBERG: May I ask that you also immediately confirm with ... We may have gotten it on the call, but make sure that we have confirmation that both compliance, and preferably but not necessarily, ARS staff can meet with us on the 27th. I believe it's the 27th.

JEAN-BAPTISTE DEROULEZ: I will change that. On compliance recommendation number 2, to be retained as in draft report [inaudible] at 10 to 15%, including a footnote explaining [inaudible] registrant rights.

On OECD related [bylaw amendments], to [inaudible] safeguarding and eliminate OECD clause in bylaws and replace both with a new clause

which requires assessments, but in a [inaudible] specific to a single document.

Alan to produce language for recommendation [B1] by [inaudible] today to propose replacement language and Alan to call for objections to be held [inaudible] by 26th of August. Alan to consider Stephanie's proposed language. The review team notes that OECD guidelines [inaudible] principle are not [inaudible] reference [inaudible] particular context, particularly given the current focus on GDPR and [inaudible] notes. We recommend that the bylaws [inaudible] suitable clause crafted that requires compliance with applicable data protection law and best practice. In particular, data transfers [inaudible] registrant data. Community input is welcome.

On law enforcement, agreement on recommendation number two as modified, with one objection to both recommendation one and recommendation two. The ICANN board should consider conducting and extending such surveys and/or studies as described in recommendation one, [inaudible] WHOIS users working with law enforcement.

On strategic priority agreement [inaudible] in brackets to ensure that RDS (WHOIS) is treated as a strategic priority.

On common interface, agreements with recommendation 11.1 as presented in draft report [inaudible] penholders to review paragraph relating to their topics and [inaudible] that they may have. Alan to finalize [inaudible].

And finally on roadmap, all are reminded to send objections ASAP and edits by 26th of August. Those who cannot make it to the final consensus call should send objections prior to the call.

ALAN GREENBERG: Thank you. Any further comments on this? Lisa, could I ask you, are you available later today to go over all of my action items and make sure that we get them done with some clarity?

LISA PHIFER: Sure. Of course, Alan. We can take that offline.

ALAN GREENBERG: 4:30 or 5:00 tonight, my time, Eastern time, would be optimal, but we can decide on that in a chat.

LISA PHIFER: Okay, thanks. I would also like to suggest, because we've made small edits to several recommendations that support staff take on board to resend just the summary table of review team recommendations that you have in one place the current language for all the recommendations.

ALAN GREENBERG: Can I suggest that you either do redline or paste the old and new one in or something like that or send the old and the new copies together some way so we can easily reference what has changed?

LISA PHIFER: Yeah. We can certainly easily redline that and what we'll do, Alan, is hold that [inaudible] bylaws edit and then we'll include that in redline version of just the table of review team recommendations.

ALAN GREENBERG: Excellent. Thank you, Lisa. Anything else? And only nine minutes late. Considering we were an hour late at one point, I thank you all for your participation and your brevity towards the end of this call. We will meet again next week, at which point we'll take a break for a while. Thank you, all.

[END OF TRANSCRIPTION]