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BRENDA BREWER: Good day, everyone. Thank you. Welcome to RDS-WHOIS2 Plenary Call #44 on the 17<sup>th</sup> of December, 2018 at 15:00 UTC.

Attending the call today is Alan, Chris, Dmitry, Carlton, Lili and Cathrin. We have no observers at this time. From ICANN Org, we have Jean-Baptiste, Jackie, and Brenda.

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

ALAN GREENBERG: Thank you very much. We are here primarily to look at recommendations that we did not get consensus on during the face-to-face meeting. We were left without consensus on, we believe, two recommendations plus the third one that I've added since then. We're going to switch the order around since one of them, Volker has to be on. We're going to look at other ones first and then go back to it. Presumably, he will show up sometime.

I could ask if we have a phone number for Volker, perhaps calling him at this point is appropriate.

The first one I would like to look at is the privacy proxy one. That's recommendation 4.1. I'm sorry, 10.1, and that starts on slide number nine.

We had complaints, not complaints. We had comments on that one, that why should we, from registrars saying why should we verify

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*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.*

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something if we've already done it, and the original recommendation read, "The Board shall monitor the implementation of the PPSAI. In the event the PPSAI policy does not become operational by the 31<sup>st</sup> of December, 2019, the ICANN Board should propose an amendment to the RAA that privacy proxy providers affiliated with registrars shall verify and validate underlying customer information provided to them in the same way as registrars are required to verify and validate other registration data.

The short version of the comments we got was, "Why should we do that if we've already done it?" Volker has rewritten or rephrased a significant part of the recommendation and if we can go to slide number 11, and I'll read out what he has now.

The wording, "the Board should propose an amendment," was something that Chris had suggested saying it doesn't need to be more complex than that. The current reworded version is, "The Board shall monitor the implementation of the PPSAI. In the event that the PPSAI policy does not become operational by the 31<sup>st</sup> of December, 2019, the ICANN Board should initiate action to that, an amendment of the RAA is proposed and ensures that the underlying registration data of domain registrations using privacy proxy providers affiliated with registrars shall be verified and validated in application of the verification and validation requirements under the RAA unless such verification and validation has already occurred at the registrar level for such domain name registrations."

I think the wording that he's changed regarding the proposal of the amendment is a bit awkward and needs to either revert back to the

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previous version or be otherwise altered, but other than that, I don't have a problem going forward with the wording that Volker has and I see Volker is now on the call.

Volker, perhaps I can ask you. Why did you change the original wording of "The ICANN Board should propose an amendment"? Was there a rationale for this? You liked the wording better or was there a specific problem you were trying to fix?

VOLKER GREIMANN:

I think there was something that I gathered from the discussions with Chris that basically, the ICANN Board would not themselves propose the amendment, but rather, ICANN staff or ICANN Org would do that and they would just initiate the action that this would be them taking care of. I would have to look at the exact mechanism in the RAA for amending the RAA, but I think it's not the Board that proposes the actual amendment, but rather, staff. That's why I made that change.

ALAN GREENBERG:

All right. Chris is on the line. I see he's muted. I don't know if he wants to speak or not. I have no problem with it. The wording that you have right now, "the Board should initiate action to that, an amendment," clearly, there's something missing there and so the grammar of that sentence has to be fixed.

VOLKER GREIMANN:

The "to" should be removed.

ALAN GREENBERG: Should initiate action that an amendment...

VOLKER GREIMANN: Is proposed. That's why I leave it open with doing that.

ALAN GREENBERG: Still it's just a little bit awkward but I don't think we're going to make any substantive changes, but we will make sure it reads properly.

Does anyone else have any problems with the rest of the wording, the change, to make it clear that we are talking about if the registrar has already in the course of the registry and the domain name verified it, then it doesn't need to be done again?

[JACKIE]: Hi, Alan. I don't have any question with regard to what you just asked about, but I do wonder. I just want to clarify that the ICANN Board is wanting to motivate ICANN staff to propose an amendment. Is that correct?

ALAN GREENBERG: I'm willing to leave the wording as Volker had it minus the word "to" subject to you proposing something clearer with the same intent unless Chris says, "No, that's not how it's going to work." I'm not quite sure

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how the mechanism by which the Board initiates the action and I don't want to put words in his mouth." But I don't think anyone, if Chris is happy with the words that we end up with in that part of that sentence, I don't think anyone is going to break consensus over it.

[JACKIE]: Okay, well I'll just propose an edit in the Google document and you all can sort of evaluate it from there.

ALAN GREENBERG: Yeah. I see Chris is not muted anymore. Does Chris want to speak?

Apparently not. He's now muted again.

All right. Volker, just a minor curiosity. You put "verification and validation" but isn't normally they're used in the other order? The validation is the large part and then there's the verification requirement after that.

VOLKER GREIMANN: Yes.

ALAN GREENBERG: I would tend to flip the two.

VOLKER GREIMANN: It doesn't matter to me. I mean, do remember this was written over lunch so don't be too strict on me with any... It doesn't matter.

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ALAN GREENBERG:                   Okay, and it doesn't change the intent.

UNIDENTIFIED MALE:           Alan?

ALAN GREENBERG:               Yes, go ahead.

UNIDENTIFIED MALE:           I just wanted to mention that in the chat, Chris said that his microphone isn't working and that [inaudible].

ALAN GREENBERG:               But he says he's fine with the wording so let's leave the wording alone subject to removing the word "to".

Does anyone else have any problem with it? I know we don't have a full group here. We do have six members, however.

All right. I hear no complaints. I'm going to assume that this is good. We will send out the reworded and the red-lined version to the list and make sure that we get an opportunity for anyone else to object.

If we can now go back to the dialogue on –

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UNIDENTIFIED MALE: Alan?

ALAN GREENBERG: Yes. Please go ahead.

UNIDENTIFIED MALE: How much time do you want to leave the Review Team to review these recommendations?

ALAN GREENBERG: Let's set a date at the end of Thursday.

UNIDENTIFIED MALE: All right.

ALAN GREENBERG: Because if not, we're going to have to call for another call but it's not going to happen until January at this point, I'm afraid. But let's hope that no one will have any quibbles with it.

Let us go back to 5.1 and skip to slide seven, please. That's correct. All right, this was the recommendation that was originally looking at anomalous behavior in the ARS compliance actions. We decided that we did not, our concern was at the level or requiring a recommendation. But we did discuss this twice. We discussed it once on Monday morning and once on Tuesday afternoon. We essentially did a diNovo review the second time, once Stephanie and Carlton had arrived.

The conclusion that I pulled out of the transcript or recording, out of the first meeting, was a decision that we would [whiff] through all the recommendations but we would have a recommendation saying we must have some level of contractability/accuracy monitoring giving us a high level of confidence in that data. The issue that we have put on hold somewhere further is resourcing of compliance if necessary. That's an issue we never went back to and I will address it in the moment.

We had a full discussion on this on Tuesday afternoon and the outcome of that was at this stage, the recommendation is being withdrawn. The replacement recommendation will reiterate the need for continuing diligence regarding accuracy and will be recommending that the ARS or something comparable be continued.

And I know there were various discussions on whether we should us contractability versus accuracy. I'm not quite sure how we would monitor that, but nevertheless, so there was a question that contractability might be more appropriate than accuracy and we left it open at this point, which we would do.

My recollection is the original WHOIS recommendation was actually looking at contractability, but ICANN decided there was no practical way to do that. You can't call up all of the... The resource is to call up everyone on the sampled ones to verify their phone number or check e-mails. It was not something ICANN thought they could do at that point. Although it was something they were going to consider and face three of the ARS which we never got to.

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Factoring in all of that, I have drafted a new recommendation which says very short... I'm sorry. I see Volker has his hand up. Please go ahead.

VOLKER GREIMANN: Yeah, nothing much. I just wanted to thank you all for taking on board my concerns with the reworded recommendation and I also would like to apologize to Cathrin if I had been a bit rash at the meeting when we discussed that. That wasn't my intent to be as rash as I was. It was just in the heat of the moment and I apologize for that.

ALAN GREENBERG: Thank you, Volker.

CARLTON SAMUELS: Excellent. We are good.

CATHRIN BAUER-BULST: Thank you, Volker. I appreciate it.

ALAN GREENBERG: Sorry, Cathrin. I didn't hear what you said.

CATHRIN BAUER-BULST: I just said "thank you" from my side.

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ALAN GREENBERG:

All right, back to the wording. I drafted something very short and very close, I hope to the wording that we came out with in both conclusions. And by the way, I was amazed that we had two different discussions and ended up coming to the same conclusion both times. I was expecting, when I found them, that I was going to find two completely different answers. In any case, we are on slide number eight now and the draft I have redone is recommendation 5.1, the accuracy reporting system which was instituted to address concerns regarding RDS-WHOIS contact data accuracy has demonstrated that there is still an accuracy concern, and therefore, such monitoring must continue.

ICANN Org should continue to monitor accuracy and/or contractability through either the ARS or comparable tool/methodology.

Now the text surrounding it will, of course, acknowledge that all of that is subject to being allowed to do it under whatever came out at the ePDP. I do note that the SSAC just came out with a revised version of their report which I haven't fully read yet but does make a number of things clearer, and therefore, the Board is going to have to consider that advice in the context of whatever the ePDP comes out with. That may be easier or harder. I don't know if it mentions the ARS or not.

CARLTON SAMUELS:

[inaudible] directly but it's a very good document to read, the SSAC report, provider report. It doesn't mention any staff directly but it actually mentions contractability and that kind of department. Yes.

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ALAN GREENBERG: Thank you, Carlton. Does anyone have any comments, negative or positive? I don't need any positive comments. Does anyone have any concern with the recommendation 5.1 as drafted?

Then I will assume we have full consensus of the six people who are on the call at this moment, and that's myself, Dmitry, Carlton, Lili, Volker, Cathrin – sorry, seven – and Chris. Though I don't think Chris has participated in the consensus calls.

Please go ahead.

CARLTON SAMUELS: Lili was asking [inaudible] report [inaudible] to Alan. It's the SSAC, Revised SSAC or SSAC1, Lili, her vision. It's posted on the exact side. All right, I will follow [inaudible] momentarily.

ALAN GREENBERG: Yeah, if you go to [SSAC.icann.org](https://ssac.icann.org) and look at documents, you'll find it.

CARLTON SAMUELS: I just forwarded it to her. I have it here.

ALAN GREENBERG: All right. Not hearing any objection, I will assume 5.1 is revised and is accepted by the people on this call and I'd like to go to recommendation CM.3. You will recall that we had eliminated CM.3 and four for different reasons.

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We had noted during the call that we had some concern about contractual compliance being adequately resourced, particularly in regard to the additional work load which might be imposed by the GDPR implementation. It is certainly currently imposed by the temporary spec and we're simply saying that ICANN Board should take steps to ensure that ICANN contractual compliance is adequately resourced, factoring in any increase in work load due to additional work required due to compliance with GDPR or other legislation/regulation.

Any comments or discussion on this one? This was not in the original report but I don't believe we'll be controversial, other than I suspect a concern from certain contracted parties over increased costs of compliance.

I see no comments and I see no hands. I'll give it a moment.

All right. I'll take it that CM.3 is accepted and will be integrated into the report with appropriate surrounding text.

Volker, a question for you. My recollection is that we had added another recommendation of yours after you left. Are the other recommendations that you had modified, because we hadn't had an opportunity to discuss it for discussion today, the only ones we found were 10.1 and the PPSAI ones which we did discuss on too, though I'm having a little bit of trouble remembering. But I think we did discuss that one in full. That's the one where we were trying to make sure that registrars did not think they had to revalidate things that were already validated.

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Do you recall making any other changes to anything that we didn't discuss. I know this is stretching everyone's memory.

UNIDENTIFIED MALE: Good question. I think I made three edits, but I'm just talking now.

ALAN GREENBERG: Well, CM.2 I know. That was the extensive one.

CARLTON SAMUELS: I don't have my laptop with me where I would see that. Sorry.

ALAN GREENBERG: All right, if there was any other – and Jackie will find it as she's going over any of these that we did not get full consensus on – then we will have to somehow do it via e-mail.

One more question on 10.1. Should it not refer to the 2013 RAA instead of requirements under the RAA?

CARLTON SAMUELS: I think both are acceptable. If we try 2013, the language becomes more cumbersome because we would then also have to include, of course, all successor versions but if we want to be more accurate, then we should say 2013 and any modifications or revisions of that one.

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ALAN GREENBERG: All right, so if we add that, you're okay with that.

UNIDENTIFIED MALE: Yeah.

ALAN GREENBERG: Okay. Anyone else? If we were placed in the last session of 2.1 of the shall be verified and validated in application of the V&V requirements under the 2013 RAA [or successor's documents].

CARLTON SAMUELS: Actually, there is mine which was used in the RAA for exactly that purpose and we can probably just cut and paste that.

ALAN GREENBERG: All right, and it's in another recommendation already, I believe.  
All right, is there any objection to Jackie making that appropriate change and I can work with her on that?

CARLTON SAMUELS: Can we just scroll to that section so I could just see [inaudible]?

ALAN GREENBERG: If we knew what recommendation it was. Unfortunately, actually, if we go to the summary one, the executive summary should have all of the recommendations in it.

CARLTON SAMUELS: Is the question that will use a language that is in the RAA 2013 contract, with specific reference to these kinds of actions? Is that what you're asking?

ALAN GREENBERG: That was the intent. I can't find another recommendation that has the number 2013 in it. This Google Doc tells me if I search for 2013, there isn't one.

All right. We will try to find the appropriate words and verify with Volker that they are correct, or verify with ICANN staff.

CARLTON SAMUELS: All right, and do that for which recommendation?

ALAN GREENBERG: We are talking about in recommendation to revise R10.1 where Volker had added a reference to the RAA but there are not verification and validation requirements in previous RAAs so we should mark it as the 2013 RAA.

But Volker's right. There is language somewhere above the documents. Sorry, go ahead.

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CARLTON SAMUELS: Yeah, I was saying you can simple [inaudible] validation and verification regime. You talk about the validation and verification regime as specified in RAA 2013. Does that take care of it? Because if specification is in the RAA 2013 and then they develop a whole methodology to do that.

ALAN GREENBERG: Yes, but Volker is saying that if we have some other one which changes those rules, this should go along with whatever the change is. I'd like to think we are, I don't think we're going to keep changing the RAA in the near future, at least not that I'm aware of other than for the ePDP and that's a consensus policy. There are no negotiations.

CARLTON SAMUELS: You can [change] verification [inaudible] specified in RAA 2013 and [inaudible] instrument.

ALAN GREENBERG: We're just trying to find the right wording for "successor instruments". I would not add the word "regime" here which has not been used before. At that point, people will start reading other things into it.

CARLTON SAMUELS: You may be right about that. I don't want to get them all riled up.



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ALAN GREENBERG:

All right. We will reference the 2013 and successor documents and we'll find the appropriate language for that. Is there anything else that we need to discuss on these three recommendations? I think we have full consensus of those on the call.

And I have an incoming call which I am going to ignore at the moment.

Actually, I can't ignore it. It's going to be too noisy. Give me 30 seconds, please.

Sorry. All right. We're now done with the three things we wanted to do on this call. Is there any other business?

I see none. The path going forward is we will verify with these three changes with the rest of the group and hopefully will get full or near full consensus on it and Jackie and I will be working over the next little while to try to get a new version of the report out and pass it by the group.

Jean-Baptiste, can I turn over to you for action items and decisions?

JEAN-BAPTISTE DEROULEZ:

Thank you very much, Alan. So under action items and decisions reached, we have under decision reached, [inaudible] recommendation has reached consensus with those present on the call. For Recommendation 10.1, both versions will be sent out to the list for review and they will have until the 20<sup>th</sup> of December and [inaudible] day. And then the [inaudible] will provide Jackie [inaudible] to add reference to [inaudible] RAA and [inaudible] in its recommendation. The recommendation, [inaudible] three, the recommendation will be

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inserted in the report. We [inaudible] and I believe you will do that, Alan.

ALAN GREENBERG:

All right. If there are no other comments, then I will call this meeting to an end. I wish everyone a great holiday season and come back refreshed and ready to review documents and get it published.

I thank you all for your cooperation at the face-to-face meeting and today. Thank you, all.

UNIDENTIFIED FEMALE:

Thank you, Alan.

UNIDENTIFIED MALE:

Bye-bye.

UNIDENTIFIED FEMALE:

Thanks, everyone. Bye-bye.

UNIDENTIFIED MALE:

Bye.

**[END OF TRANSCRIPTION]**