

**ICANN Singapore Meeting
IRTP B PDP
TRANSCRIPTION
Sunday 19 June 2011 at 14:00 local**

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Stephane Van Gelder: Thank you very much. So we can start the session now Michele if you are ready to give that report. Thank you.

Michele Neylon: Thanks Stephane. This is the IRTP Part B Final Report. So IRTP for those of you who aren't familiar with us is the Inter-Registrar Transfer Policy, which governs the transfer of domain names between registrars. This PDP is one in a series and we've been asked to deal with several questions should there be a process or special provisions for urgent return of high jacked registration, inappropriate transfers, or change of registrant. We were also asked to look at registrar lock statuses, standards, best practices, and also clarification of denial reason number seven in the current policy.

We started on this back in June 2009, so we kind of congratulate ourselves. We are now into our second anniversary. We had an initial report back in May of 2010. A proposed final report was put out for public comment in February of this year, and we put out our final report for publication at the end of May with nine recommendations for the GNSO Council's consideration. So the recommendations and the key thing here is that they all have full consensus support from the working group and break down as follows.

Four recommendations for changes and/or additions to the existing policy, including the addition of a Transfer Emergency Action Contact, Section 3 of the IRTP Denial Reason Number 6 and Denial Reason Number 7. Two recommendations requesting an Issue Report related to thick WHOIS and

change of control and Denial Reasons 8 and 9. One recommendation for the promotion of a previous SSAC Report, one recommendation is to defer an issue, one recommendation is for ICANN staff to do better work on the standardization and clarification on some of the WHOIS status messages.

So breaking this down in more detail, Charter Question A, whether a process for urgent return/resolution of a domain name should be developed as discussed within the SSAC High jacking Report.

So the recommendations we came up with - requiring registrars to provide a Transfer Emergency Action Contact for urgent communications relating to transfers. The goal of the TEAC, invention of a new acronym, is to quickly establish a real-time conversation between registrars in case of an emergency such as high jacking. Responses are required within four hours of the initial request, although final resolution of the incident may take longer.

The key thing here is that the TEAC is only available to registrars and nobody is expecting miracles. It is more about getting a conversation or communication going rather than getting resolution. We're also talking about promoting proactive measures to prevent high jacking such as outline in the recent report of the Security and Stability Advisory Committee on A Registrants Guide to Protecting Domain Name Registration Accounts, also known as SSAC 044.

Charter Question B - whether additional provisions undoing inappropriate transfers are needed, especially with regard to disputes between a registrant and admin contact. And the policy as far as we are concerned is clear that the registrant can overrule the admin contact, but how this is implemented is currently at the discretion of the registrant.

So we would like to request an Issue Report on the requirement of thick WHOIS for all incumbent gTLDs. That was discussed a bit yesterday during yesterday's GNSO meeting. We are also requesting an Issue Report to

examine the change of control function as well as a review of lock procedures as described in IRTP Reasons for Denial 8 and 9. The change of control function we are talking about here is the change of control of the domain name, so for example if the domain is registered to Entity A and changes to Entity B, how that is actually handled.

Modifying Section 3 of the IRTP requires the losing registrar notify the registrant of the transfer out. Under the current policy, that is optional. Quite a few registrars do this, but they aren't - it isn't mandatory for them to do so.

Charter Question C - whether special provisions are needed for a change of registrant when it occurs near the time of a change of registrar. The policy does not currently deal with change of registrant, which often figures in high jacking cases.

And the recommendation we came up with here is clarifying IRTP Reason for Denial Number 6 to make it clear that the registrant must give some sort of informed opt-in express consent of having registrar-specific locks applied, and the registrant must be able to have the lock removed upon reasonable notice and authentication.

Charter Question D - whether standards or best practices be implemented regarding use of a registrar lock status and we came up with a couple of recommendations here.

If a review of the UDRP is conducted in the near future, the issue of requiring the locking of a domain name subject to UDRP proceedings should be taken consideration. Also standardizing and clarifying WHOIS status messages regarding registrar lock status. The working group recommends that ICANN staff is asked to develop an implementation plan for community consideration which ensures that a technically feasible approach is developed to implement this recommendation.

Charter Question E - Whether, and if so, how best to clarify Denial Reason Number 7. In other words, the domain was already in lock status provided that the registrar provides a readily accessible and reasonable means for the registered name holder to remove the lock status.

After discussing this at length, we recommend deleting Denial Reason Number 7 as a valid reason for denial under Section 3 of the IRTP as it is technically not possible to initiate a transfer for a domain name that is locked, so you can't deny it and hence making the entire thing obsolete. We would recommend instead that Denial Reason Number 7 should be replaced by adding a new provision in a different section of the IRTP on when and how domains may be locked or unlocked.

And for further information, the final report public review, the previous comments, and the existing policy, so if anybody has any questions, please go ahead.

Stephane Van Gelder: Thank you very much Michele. Any questions? Chuck.

Chuck Gomes: Yeah for those that are newer to the council, you may not even be aware of the fact that most of the people on this particular working group have consented to continue after IRTP PDP A and are now doing B and we're hoping it will keep going C, D, and E, but I think it's really important that we recognize that and not only thank them but compliment them on the work.

Now A didn't result in any policy changes, but there were actually some consensus policy changes that would occur in these particular recommendations. And I personally believe and I think the registries as a whole believe that it will be some good improvements to the Registrar Transfer Policy without making any significant changes to the original consensus policy.

So I personally thank Michele and everybody on that working group for the long work they've done and for producing this report and these recommendations.

Stephane Van Gelder: Thanks Chuck. We (unintelligible) those (thanks obviously). Any further questions? Wendy.

Wendy Seltzer: Thanks. You said that all of these recommendations were recommended out unanimously. I wonder if there is anything controversial lurking underneath that you think the council should be aware of or if not that the recommendation that we go ahead and adopt this as you've proposed.

Stephane Van Gelder: Wendy well thanks for the question. No, there's no black helicopters I'm afraid. Sorry to disappoint you.

There are a couple of things that we did identify that we think need to be looked at more closely. At present, if you look in the consensus policies, there is nothing about change of control of a domain name. So when you want to change the control of a domain, a lot of the time people will just transfer it between one registrar and another, and so that's something we think should be looked at.

There are other things to do with the WHOIS and various other things, but more to do with just making it easier for (legal) to understand where a domain is at in terms of what its status is. The transfer emergency action channel concept is pretty much what it says on the (channel). I mean it's not particularly complicated, there's nothing strange about it, it's just really an idea of getting some kind of dialogue going between two registrars and you know to get a resolution quickly. No, there's nothing particularly strange.

I think on the motion that was being discussed yesterday there were a couple of points, but you know I think Tim was dealing with removing a couple of

points and tweaking (of the small). But as I say, there's nothing really strange and there's no black helicopters. Sorry.

Wendy Seltzer: Excellent. Thank you.

Chris Chaplow: Thank you. Chris Chaplow from the Business Constituency. You are right there are no black helicopters at all and perhaps it was a model working group really. Because you know it took us a long time, but I think we've come up with some good resolutions.

What was a little bump at the end was going from the report into the resolution that we have with us. And (I checked) around with people with better minds than I like Mikey, and Michele, and others, and we are all happy with the resolution, but there is perhaps a process point that we need to be aware of. And it's a general point I think that the people on the planet who most know the subject - and it is a complicated subject - need a little bit of time just to make sure that the resolution does dovetail in with the report.

Because it was complicated; it really was. And we are there, but it was a bit of (a rush) and I think perhaps as a process point for the future that little time cycle - we need to make sure that it's there in working group reports. Thanks.

Stephane Van Gelder: Tim can you just enlighten as to where we are specifically with the motion itself? Because we had some discussion on this yesterday and we agreed that we would pick this up now and we might find the time to talk about the motion itself. You had expressed some possibility that the motion might need some further tweaking, so I'm just wondering where that was.

Tim Ruiz: I don't believe that will be the case. I think we did come to some resolution yesterday that the motion as it stood edited from the original motion - but as it stood at that point was probably good. And I think Michele you know kind of circulated that and asked if there was any feedback. I don't believe there has

been any, so I think we're good on a motion at this point. Marika might have a different view perhaps.

Marika Konings: I think the only thing is to remove that one item under the Request for Initial Report in IRTPC where we said that is already covered by the other recommendation. I think that just requires to be deleted - that sentence, right.

Tim Ruiz: Well we did talk about that, but I guess it was - the way I felt about it ultimately, which I kind of (unintelligible), was that it really didn't matter whether we left it or not. Because if the other resolutions are accepted, it will be basically a moot issue. When we do get to IRTPC, then we can just deal with it in the charter for that particular working group.

Marika Konings: Right. So you don't basically expect that an issue report will dive into that issue and outline as well (actually) part on the recommendation that were adopted. These questions might no longer be relevant. Do you recommend just keeping it in the - removing. Because I think there was a discussion as well on removing admin contact at the end. I think that was an issue or a question for some and leaving it like that. Is that correct?

Tim Ruiz: That I'm not real sure about.

Marika Konings: (Indicated it might be better) positioned to explain, but there were some people on the call I think that expressed a concern. The way it's currently worded it says the FOA being sent to the registrant or the admin contact, and I think some felt that that question wasn't appropriately phrased.

Michele Neylon: So the way IRTP is currently worded refers to the transfer contact and then in other parts it makes specific references. And we have it very clear that whether there is a conflict between the admin contact and the registrant contact, the registrant wins. So the wording I think of that one sentence where it specifies admin and registrant, but be wording it as transfer contact would work.

Tim Ruiz: So let me just go back and ask if you feel the working group would have an issue if we just deleted that then instead of - if we are going to reword it or mess with it, then you might as well just delete since it's already dealt with elsewhere.

Michele Neylon: Personally I don't think there will be any issue with just deleting it.

Tim Ruiz: Okay.

Michele Neylon: As already discussed, it has been dealt with elsewhere and most of the working group are around so if anybody has any strong feelings about it.

Tim Ruiz: If (no one) says anything today we can just leave that. If there are other issues, you know be sure and bring them to me and I will - or one of the other council members so we can bring them up. Otherwise, I will just plan on kind of making a friendly amendment to the motion to delete that and then we can move forward.

Michele Neylon: Yeah, you can just suggest changes. The motion hasn't been seconded yet, so...

Man: (That was the last part of the endeavor).

Michele Neylon: Yes, I was going to ask you if you maintained the (second). You are happy to. Can you say it?

Man: For the record, I'm happy to maintain the second.

Michele Neylon: Thank you. So the wiki can be amended with that - updated to show that. And you will suggest the change that you just mentioned. Thank you.

Stephane Van Gelder: So it looks like we have a motion that we are ready to consider on Wednesday. Are there any further questions? Kristina.

Kristina Rosette: I just want to remind everybody that the Recommendation Number 7 issue that the IPC is going to talk about at Constituency Day, but that's the only issue I can see from my perspective.

Stephane Van Gelder: Can you clarify?

Kristina Rosette: The language - I don't have the motion. Do you have the motion?

Stephane Van Gelder: That's going to be put up. It's put up now.

Kristina Rosette: All right. If you scroll down, I want to say it's like Number 4.

Stephane Van Gelder: Deleting Denial Reason 7.

Kristina Rosette: Yeah. Yeah. Yeah that one. That one - 4C. Only because it really just doesn't seem to fit. It's already encompassed by the preliminary Issue Report on the UDRP and I think it just makes sense to have it just be cleaner.

Stephane Van Gelder: No I don't think you could be heard very well.

Kristina Rosette: You know like I mentioned yesterday, it just doesn't seem to fit in here. It's already - this idea. The principle behind it is already encompassed in the UDRP preliminary Issue Report as I understand it and it just seems to be cleaner.

You know there's nothing in - I've gone through the Final Report like three or four times and I haven't really found any discussion of where that came from. I know that there was an explanation yesterday, but I think it's just going to be confusing to have that just kind of random resolution inserted there where anybody who wanted just to get an understanding of where that came from

and how it developed. There's nothing. I mean maybe I'm missing it, but I've gone through the Final Report a couple of times and I haven't seen it in there.

Stephane Van Gelder: So you would be - you want to come back to...

Michele Neylon: One of the questions we were asked to deal with was in relation to lock statuses and clarifying lock statuses so that all parties involved could understand when and how locks were applied to domain names.

Now locks in relation to UDRPs obviously came under - were discussed. And one of the areas of concern for us is that locks around UDRPs aren't as clear as they could be, which is where this came from. So it isn't random and it isn't something that just kind of appeared randomly there. I mean there was a reason for it.

Kristina Rosette: No, I understand that, but I'm talking about if you look at the Final Report. And I am happy to be corrected. But when you go through it and you try and kind of connect the text from the Final Report with the recommendation, there really isn't a nexus there. And it just seems to me that if all we are doing is recommending that if a review of the UDRP is conducted in the near future, I mean that doesn't really help us. Why not just deal with it in the context of the UDRP Issue Report that we're going to be acting on in the next three months anyway?

Michele Neylon: I just think I would have to disagree with you on that personally.

Kristina Rosette: Like I said, I'm happy to stand corrected. I mean if you can point me to the (nexus) in the final report, I'm happy to stand corrected.

Michele Neylon: I'm not a lawyer Kristina. I mean from my - I'm not aware of the nuances that you may have with us having this here. But I mean from my own personal perspective, this appeared in our Final Report because it was something - there was a concern that needed to be addressed and we couldn't just ignore

it. Because it also came up as a comment I believe actually from the IPC.

Was it IPC?

It was actually WIPO's comment on one of our previous reports and that's where it came from. And because we went through the comments that we received, we made sure that we addressed each and every comment. So you know it didn't kind of appear randomly. And I think within the context, it was actually doing a full and complete body of work related to this. We couldn't just simply brush it under the carpet and ignore it.

Stephane Van Gelder: Okay Jeff.

Jeff Neuman: Yeah I think at this point it is in the Final Report. It is a recommendation that they have. I just think it's not appropriate for us to play with the recommendations. What we can do - and the recommendation I made yesterday was to actually vote on these separately. And we could always vote that down if that's what the council wants.

I think it's - from my personal view, it's appropriate to be in the motion. Again, if we vote it down, we vote it down, but it was a recommendation of the Final Report so I don't see a reason why it should be deleted from the motion.

Kristina Rosette: I'm not suggesting that it wasn't a recommendation and that we should take any action with it with regard to the Final Report. I'm just saying that in the context - and you know I'm happy to pursue this with WIPO, but I'd bet they'd be willing to say yes you are right. Now that we are doing the separate look at the UDRP, it doesn't make any sense to have this in here because there isn't really anything that's going to happen.

Jeff Neuman: I mean I might be slow, but I don't understand why. I mean if you're just thinking it will cause confusion...

Kristina Rosette: I'm just a believer that you say what you mean and you mean what you say. And if there isn't really any action called for here...

Jeff Neuman: But there is. They are saying if...

Kristina Rosette: In the near future. So you know what happens if we get down like a year from - my point is I don't think it makes any sense to have in the context of a motion that is calling for implementation of all of the various recommendations. We're not implementing anything here.

Stephane Van Gelder: Can I just ask Marika to clarify what's in the report so that everyone else is on the same page?

Marika Konings: This is Marika. So if you look actually at Page 27, the last bullet point there talks about the discussion the working group had on this item. And it was raised by WIPO noting that and the working group feels that it should be considered in the (context) of any potential UDRP review. But commenting on the language there, I think it actually is indeed appropriate - I mean an action item.

Because I mean if you say it is conducted in the near future, the council could decide if a review is not conducted in the near future that this issue might be considered separate. Like for example, there could be a potential approach if indeed a UDRP review wouldn't happen, so I think in that sense it is a placeholder. To a certain extent, they are saying if the UDRP review happens, then that issue moves in there. But the council keeps the possibility open that if that doesn't happen to take that issue maybe as a separate item into consideration if it feels it's warranted to do that.

Man: May I make a suggestion?

Stephane Van Gelder: Hang on. Let's keep the two. I have Carlos and Tim. I also want us to talk about the thing that Jeff alluded to, which is voting on these resolutions separately because they don't all have the same threshold if we take them separately. So that's an issue we've struggled with in the past on other

motions and it sometimes does make sense to separate these things out. So if you can bear that in mind when you are commenting on this. Carlos.

Carlos Dionisio Aguirre: Yes very short. Thank you Stephane. At this point, I agree totally with Kristina. For me, it's very clear - the situation. Sorry. Thank you.

Stephane Van Gelder: Tim.

Tim Ruiz: Yeah I feel like I'm going to be in a difficult spot come Wednesday. I just want to point out that you know as Margie confirmed when we were discussing this yesterday, you know it's already done. I mean it's already on the list of issues, and the Issue Report, so basically even though we haven't voted on this recommendation it has basically been followed through on more or less through a different course.

So you know whether we leave it in and vote on it separately or take it out, the effect is not - in my mind it has zero affect either way. And my interest is more in let's try to have a motion that's going to have as much support as possible. And I'm not implying that we're going to get 100% support on everything, but the closer we can get to that I think the better. And that this has already been addressed might be something we want to consider. Just throw that out there.

Stephane Van Gelder: Tim what about the suggestion that we vote on the (resolved clauses) separately? How would you feel?

Tim Ruiz: I think we already agreed to do that. In fact, I think it's almost a necessity because there's a threshold issue with at least one of the resolved.

Stephane Van Gelder: Thank you. I have Jonathan next.

Jonathan Robinson: Mine is I guess I hope a constructive suggestion or at least the thought with it. I mean part of the problem with this is that the near future is

completely unspecific, and I just wonder if there is an opportunity to capture that in a specific timeframe. It's not the answer, but it might at least improve it like as in it's conducted in the next 12 months.

Stephane Van Gelder: Zahid.

Zahid Jamil: I think I will just repeat what I said yesterday. We would support - we actually had a discussion on this issue this morning within the BC and I think the support would be to have this item actually not be there if we were to get support on it and I just want to reiterate that you know it makes it easy for us. And I think Tim's suggestion makes sense, which is that if it doesn't detract from the resolution per se, then not having it there makes it very easy for us to basically move ahead and vote on it without any issues. So I would support what Kristina said.

Stephane Van Gelder: Jeff.

Jeff Neuman: Yeah I'm kind of - and this may come up in the PDP context. I think what I want to try to avoid - and this is a common position I've had for a long time. I don't want the GNSO to be a legislature. I don't want it to be top down. What I want is if a working group comes to us and makes certain recommendations that we can hear all of those recommendations even if it means voting them down.

I just think it's unfair for a council to substitute its opinions for that of the working group. This working group has unanimous consensus that all of these recommendations come to the council and be duly considered by us. If that means we vote it down then great, at least we've considered it, but I don't think we should be getting in the business of substituting our own thoughts. I know you may not like it, Kristina might not like it, I might not like it, but the point is we have an obligation to act on it and I think we should do that.

Stephane Van Gelder: We have an obligation to look at it and we can ask the group to rework it. We don't have an obligation to act on it now.

Jeff Neuman: But we're not asking the group to rework it (or eliminate) it from the motion.

Stephane Van Gelder: No, I'm just saying...

Tim Ruiz: Just kind of briefly on that Jeff. And I don't disagree with you, and that's why I feel like this is going to be - I have the feeling we're going to have a suggested amendment and figure out if we're going to say it's friendly or not and or even if I can based on what Jeff was saying. So I am not looking forward to this, but I think in this particular case this is really hitting the policy recommendation. Even if we vote in favor of it, it's not really you know anything involved with consensus policy directly. It's suggesting that something be considered the next time we consider or potentially review something that's a consensus policy.

So I'm not sure if that affects things or not, but again if we didn't - I mean I guess what I'm saying is that we don't ignore it. It's the fact it's already done. It's a recommendation that has already been - it's done. It's there. That was my point and not that we are necessarily going to skip over recommendations that they make.

Stephane Van Gelder: Thanks Tim. Mikey.

Mikey O'Connor: Thanks Stephane. This is Mikey. I was on the working group.

I was sort of the one that raised the issue of the process problem that we've got here, and one option that you might do is just send this resolution back to us for a rework and bring it to your next meeting.

Stephane Van Gelder: Well that's not the resolution but the work itself is exactly what I was saying we could do. Resolution B - the motion has been made. So far it is not off the table. If the council wishes it to be sent back or some more work

to be done, then it will decide on Wednesday I think. Any further questions on this.

Tim Ruiz: Just one other suggestion. I would just ask Kristina and perhaps Zahid too that in your discussions you know besides deleting it, you know is there some other option you know to maybe discuss?

Kristina Rosette: I mean I would be fine with transforming this into kind of just following the lead that we have adopted lately at Jeff's suggestion. That have it be the GNSO Council acknowledges that you know Recommendation 7 of dah, dah, dah, dah, dah. I would be fine with that.

Stephane Van Gelder: So can you put those as an amendment perhaps?

Kristina Rosette: Yeah, I mean obviously I still need to you know talk about it with the constituency, but absolutely. I mean I'm fine doing that. I mean if that works for you guys, then that solves my problem.

Stephane Van Gelder: So I think we've got - at least we've worked out the process. We know where we are going on Wednesday. We know we are going to consider this motion as separate clauses with...

Kristina Rosette: Actually it would be helpful in talking through it in Constituency Day to have it - I mean are we literally going to go resolved by resolved or are we going to group the ones that have the same threshold?

Stephane Van Gelder: I would rather go resolved by resolved because it's just - if we decide to split, it's just easier process wise to...

Kristina Rosette: Right. That's fine. I just wanted to make sure that everyone is clear as to what we're (working on now).

((Crosstalk))

Stephane Van Gelder: So just to make that clear for everybody. On Wednesday when we come to consider this motion, we will take each resolved clause. I will call for a vote on each clause. I've asked staff to help me work out the thresholds because I'm so good at math and I always want people to check my math, but mathematics.

Man: Did you say math?

Stephane Van Gelder: Yes and...

Man: (Unintelligible).

Stephane Van Gelder: And so we will go through each resolved clause, vote on those, and take each in turn, okay. Chris.

Chris Chaplow: Thank you. Yes, my comment actually before the statement you just made really speaking as a rank and file member of the working group and thanking Chuck for what he said about the long road because we have got a long road. I wasn't on A, but we are now on B - nearly finished B and there is a long road ahead.

So from our side of the fence, I like to see our recommendations up there. With respect to Jonathan, I don't like the idea of putting a date in there because that's changing what the working group suggested and I like to see it up there. And I'd actually be rather happier if the council voted it out on Thursday than if it got taken out now simply before maybe the wrong reason, but also the right reason of the (merit) of the working group in the wider context. Thank you.

Stephane Van Gelder: Thanks Chris. I mean we are very mindful of both - as we said earlier the work that you've put in. Not you personally, but everybody on your group. And we are also - when we come to make these decisions mindful of making sure that the group understands when we report back to them on the

decisions that we've taken how we got there. This is also why we hold these open sessions during the weekend so you can all participate and understand what the discussions we're having are. So thanks for making that comment. Any further comments.

Michele do you have any closing remarks?

Michele Neylon: Not really.

Stephane Van Gelder: Okay in that case, let's cut this short. We will take a short five-minute break and then reconvene please for the last session of our weekend before we break for the GAC Board meeting and that will be the Policy Development and Process Work Team. Thanks very much. Operator this session is now closed.

END