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BUENOS AIRES – At-Large Regulatory Issues Group  
Monday, November 18, 2013 – 13:00 to 14:00  
ICANN – Buenos Aires, Argentina

HOLLY RAICHE:

I'm speaking to an empty room, which is just terrific. This is titled the Regulatory Issues. We're probably going to retile the Working Group as well. The purpose of this particular session is to formally merge what were two groups into one. One is the WHOIS, and that arose out of the real focus that ALAC had on the WHOIS Interim Report, the Final Report, the WHOIS issues, the compliance issues arising from WHOIS data.

There were a lot of issues that revolve just around WHOIS. But we were also, over time, involved in the larger issue of the Registrars' Accreditation Agreement, which is really the home of the WHOIS requirements, because it's... Garth will correct me... Three, seven... Garth won't correct me, but there are requirements in the Registrars' Accreditation Agreement for a set of data relating both to the registrant and to the registration data itself, which are required to be made public in a particular way.

There are a lot of other requirements in that agreement, and there's also another agreement that's relevant, and that is the agreement that ICANN has with registrars as well. All of those issues are beginning to merge. Some of you will be aware – probably most of you – the Review Team of the WHOIS Policy was issued I think over a year ago.

The report was finally accepted by the Board with its recommendations, and the amended RAA was accepted by the Board in June 2013. So

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we're now in a very different place, which is the RAA has been amended. Those amendments have been accepted by the Board. There are a range of documents that were passed as part of the Board's acceptance of the revised RAA.

They included what was called an Accuracy Program Specification. They included a document, which was really only the skeleton, the bare bones, of what would be the Privacy Proxy Specification. There was a document called the Registrants' Rights.

It was a document that was supposed to be available to registrants, to let them know what their rights and obligations are, except that somewhere in the development of the document the title was changed from "Registrants' Rights and Responsibilities" to "Registrants' Benefits and Responsibilities" and we're still getting to the bottom of why that changed.

So there is still a lot of unfinished business that arises from the RAA, its acceptance and the documents that accompany it. So instead of having two Working Group – one was the RAA, which has been in existence for some time and was all about amendments that should be sought to the RAA, and then the more specific Working Group titled WHOIS – they're all now part of the much larger issue, which is about registration data.

That now includes a range of issues. It includes probably looking at compliance with the new RAA itself, it includes probably the issues about Thick versus Thin registries. It includes the document that used to be Registrants' Rights and Responsibilities but is not Registrants'

Benefits and Responsibilities. It includes the Privacy Proxy Specification, and very recently there's been a call for membership of a new Working Group to work out an accreditation specification for privacy proxy servers.

For those who remember it, there was also a study done and we commented on it, which stated the obvious; that there's a lot of criminality and other nefarious activity hiding behind privacy proxy servers, which makes it all the more important to get the Privacy Proxy Specification correct. The least piece – Carlton, you're going to have to talk about the EWG now – is the EWG.

CARLTON SAMUELS:

Good afternoon everyone. I'll give Matt a few minutes to get a few slides I sent to him up onto the board. I'm going to begin talking about the EWG. We have a few slides that I just sent to Matt, unfortunately. The EWG – I'll give a little background to what's happening. The Board have passed a resolution in which it agreed to constitute an Expert Working Group on WHOIS, and the Charter for this group essentially said, "We've been with this WHOIS issue for quite some time. Maybe we need to have a rethink from the ground up."

So the Charter was given to the group to have a look at the whole WHOIS issue and the whole conundrum surrounding WHOIS, and to think anew about what we need to do for registration data. As it were, it was to also make some recommendations that would be input to the policy process for the next generation registration data services.

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We started meeting early in the year. The first initial report was published on the 24<sup>th</sup> of June this year. Essentially, the initial report indicated that a paradigm shift was required to deal with the WHOIS issue. Two significant things came out of that. First of all we were unanimous that the one-size-fits-all WHOIS approach was no longer serviceable, so we had to abandon that.

The response was to create a purpose-driven registration data service, and at the same time ensure that the issues that bedeviled the existing WHOIS system about privacy and accuracy and accountability, would be sufficiently addressed. Those were the two major decision points that came out of the initial WHOIS consultations. We had come into consultations in Beijing and Durban, and we also had public comment online, using Wiki and email.

We had some feedback. We went back and looked at the feedback and we tried to address the community concerns in a way that created a set of... Well, we were responding to a set of community concerns. The concern was that there were disadvantages in the initial report, when we thought we had a high-level system that we thought would be worthwhile. The major pushback was that it was an issue of data latency.

We were creating a big data source that they felt would have increased the risk of attack, and undermining of WHOIS data. Single data source, big data, would mean increased risk of inside abuse. Their initial projection was that registries and registrars would be intermediated, and not be ultimately responsible for delivery of registration data.

So we went back and we've looked at a status report, and the next slide will tell you what is emerging; what's come about. Where are we now? Essentially we thought we would dig down a little deeper on looking at... Remember we said that a one-size-fits-all WHOIS was no longer possible?

We recognized that if we were going to deal with the privacy and accountability issue and the accuracy issue, then we have to look at a set of public data elements for WHOIS, and what we call gated data elements for WHOIS. The gated data elements were those that require some heightened process to access, but there will be a process to access those. We look at the validation of data, including use of contacts. We needed to look at the privacy and proxy services.

We didn't think that privacy and proxy was going to be something that was going forward, so we started talking about "shielded services" because essentially that's what they did. We looked at an issue where anonymity was going to be an issue, so we started looking more deeply on what we call "secure, protected credentials". That was a way to accommodate persons who were seriously at risk if information about them would have been made public.

Then we look at the access methods, and we look at our EPP and RDAP – those are access protocols – would actually enable the access and display of all those data elements, whether they were gated or public. It's very important to understand that if you're going to do a digital system, then the methodologies for access should be able to help you determine if:

A) People were getting the right access based on the qualified purpose-driven access, and; B) what the level of security and confidentiality was associated with each element. You had to have some kind of protocol that would enable you to track those things and do what you say you want to do.

When you look at the parts of the WHOIS system we thought it would be better for us to make a comparison between the current WHOIS system and what we think would work for what the demands are WHOIS system now. So we did a much better job of doing a comparison. Then we look at implementation models; pros and cons.

You will recall that one of the big problems we had with the WHOIS Initial Report was that we were thinking that a centralized model would probably be much better at taking care of all of the requirements, especially with respect to access, when you have this big increase in the gTLD space.

Consider this: as it is now with 20-something gTLDs, think what would happen when there are thousands of gTLDs and you have to manage RDS data for that, and what it would take for you to even find one – a needle in a haystack approach. So the idea was that if we federated or centralized, we might have better results, and that caused a lot of pushback.

So we looked at all of those things and we thought... We published the central report. I should say, some of what we did – and if you recall the SSAC intervention yesterday when they spoke about some of the things

they'd made recommendations on with respect to the initial WHOIS Report, they now see that we've embraced in their updates, and that speaks to...

We try to harmonize terminologies, especially those dealing with accuracy and completion, and data validation for WHOIS data elements, and we were quite pleased to see that they actually agreed with us – that we were listening to the community and making adjustments as we go along.

So where are we now? We published the second Interim Report. That was published on the 11<sup>th</sup> November. It's a fairly long report; over 80 pages, and most of you have probably not seen it yet. I would encourage you to go and look at it, and at least read the Executive Summary to show what we've done and what we've made adjustments to and so on. At least look at what we're proposing as the way forward.

This slide here up on the screen is what we're planning to do. We thought we'd take a hiatus, because there were some issues that to address them properly would require further research and listening, so we thought we're going to go into a research phase between now and the end of February, where we will look at some of those issues you see up there; ccTLD and commercial validation practices.

That's the big thing about data validation. The fact is that validation routines and validation frameworks exist even within our space, and some of the ccTLDs are way ahead on that. For example Nominet, which

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is the ccTLD operator for .uk, have a fairly robust validation practice that we're looking at, and there are others we'll look at.

Commercial validation – I don't know whether you know that there is a lot of validation; especially for Interpol and some of the other multi-lateral agencies. They have validation routines that we might need to look at. Risk impact analysis is a big thing. The fact is that if you're going to talk about provisioning a new system from the ground up, you have to look at the impact on the various stakeholders on this platform.

We've just not done enough work on that. Impact in terms of data, in terms of placement of data, in terms of the operational models that are possible, and what the comparative risks are between them. All of these kinds of risk analyses and impact analyses must be done, and we're committed to getting further and better information on that in this research phase.

Proxy practices – we spoke about the fact that proxies are used for registration by just about everybody, we found. If you see the gNSO report on proxy, that provided some grist for the mill. We thought perhaps we should look a little more into the proxy privacy provisioning practices, so that we could fashion a response that was responsive to the needs for proxy and privacy services, but also ensure that the registration practice was not on the mind by those very same practices.

So we're going to look a little further into the proxy privacy provisioning practices to see what we find there. Cost analysis – part of the risk framework when you're recommending new systems, is that you have to



find out what the cost is, because they're multiple stakeholders and the first question is, "Who's going to pay for it and by what means is it going to be paid for?"

We know that we have to have... It's not a one-size-fits-all registration data service. We know that there are some elements that have to be publicly available to everybody, and we know that there are some elements, because of the privacy concerns that are inherent to the data usage in these systems, we're going to have to have some kind of gated services.

We know that we have to account shielded services, because they're so widely used now that to pretend they don't exist would not be in all of our collective interests. So we have to see what they are and find a way to ensure that the people using them are either controlled or they are adopted with some controls.

So those cost analyses are going to happen between now and the end of February, and then we will go into final deliberations. So probably by the end of February the team will reconvene. We will look at the outputs from these research efforts, and then we'll begin the arguments that will lead to the final report. The final report, we suspect, will be in time for the 49 ICANN Meeting in Singapore.

Most certainly, by the time we get to London we will have had output that will then become input for the policy development process. That's about all I can tell you right now on the EWG work. For those of you that are in Buenos Aires, we will have a public session on Wednesday

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and we're inviting all of you to the session where we'll give better and further particulars. Thank you.

HOLLY RAICHE:

Back over to me, which is to explain that based on Carlton's presentation and where we're up to, the reason we're going to have the two – the RAA and the WHOIS merge – is because those issues have now absolutely merged together. We're dealing with registration data, we're dealing with it in the context of the RAA, as it's been amended, and those documentations that surround it – including the Privacy Proxy Specification and the Working Group that's just been formed.

Compliance has just been given to us, because in fact compliance refers to the compliance with two relevant contracts, both of which are well and truly within the remit of what we've got. The main issues that will be addressed by this Working Group will be, I suppose, an oversight of compliance with the RAA, including the Registrars' Accreditation Agreement.

We will probably subsume the debates about the Thick registry issues. The privacy proxy services go in there. EWG fits in there perfectly, so what we're proposing – and we've done a draft Charter, which we'll have a look at – in a way is there's going to be a new Working Group called Registration Issues, and that's where all the issues that have been dealt with in different Working Group will now be fought.

Now, everyone has a hard copy of the Charter, but we'll just go through it. I can just talk very briefly to the text of it. Basically, the ALAC has

determined the issues surrounding the data registration services are complimentary. They do constitute a framework, which is what we've talked about in a de facto regulatory. I know we don't say "regulatory" because we don't have regulatory, but that's an argument we've long since passed over.

Protective stewardship of the interest of end users. This is an ALAC end user perspective on this range of issues, and they're listed as defined to include the following objectives: we're looking at an equitable framework to record all the interests and monitor the criteria for registration data. We're not saying necessarily WHOIS – we're actually leaving that quite broad so it includes both the current structure and anything that we move to.

The group may be augmented from time-to-time with the necessary expertise to make specific recommendations for policy development in this area. In fact, if we look at the policy work that we have done, it may be something that we do something ourselves – to define... Sorry, you have a question?

AHMED:

This is Ahmed from Pakistan. I'm a Fellow in this meeting. There are several types of proxy, like STTP proxy, IPs – it's a relevant port – and then Softel – so what are the plans to which type of proxy, and how would you manage the proxies with just IPs, without any domain names?

HOLLY RAICHE:

I'm going to answer briefly and then you can go on. There is a thing called the Working Group Charter for a PDP to address privacy and proxy services. It's a very specific terminology. It's in response to a thing called privacy proxy services, which have been defined, starting in the RAA itself. If you go back to the RAA documentation that's where the term is first used.

Now, the EWG has come up with its own view, but that's where the term comes from and that's the way we're using it, because that's the way the RAA actually uses it.

CARLTON SAMUELS:

Yes. In the context of which we are speaking, of proxy, when you register a domain name you can do it on your own or you can ask somebody to do it for you. Depending on the arrangement, you will appear as the registrant, or the person you ask could appear in the record as the registrant. Those are different things. Our interest is to ensure that we have someone for a domain that is reachable, and what the privacy and proxy services are used for.

Proxy services are used by individuals. They're used by institutions, organizations, commercial and non-commercial, to register domain names. The problem it poses is that if you cannot contact the owner for the domain name, then we have a problem with respect to the stability and security of the DNS. What we're trying to do here is find a modality that will make all our interests converge, so everybody's interests are served.

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That is why we have a Working Group that is set up to look at this issue in detail. If you're interested in it, I would urge you to sign up for the Working Group. We're still looking for people now. Work there. It's a very interesting, involved issue. You don't have to be any expert in it, it's just objective. What you're interested in is an objective that works for all of the stakeholders in the DNS.

You can participate to the extent that you feel capable and comfortable. First of all, join the Working Group, and from the Working Group you will learn a lot from the other members of the group and you will have access to the data and information you need to make informed decisions. Yes?

HOLLY RAICHE:

Just a final point – if you want a definition of the way it's been used, an explanation, if you go to the Final Report of the WHOIS Review Team, which was May 2012, I think, they have a long discussion about what they mean by both terms. Now, in their initial report they actually used different terminology but in the end changed it. The way that they have used it in the Final Report, is probably as good an explanation as the way it will be used.

CARLTON SAMUELS:

Okay. Can we go back to the draft Charter? You see the Charter laid out there. The first declarations everybody understands. We have to declare the principles on which the Working Group, and of course if you

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see them you see them build down. In this case, the top one is the At-Large constituency, what you think the At-Large constituency is about.

Those are already expressed, but if you have a different view we'd be happy to hear it. Then there's the role of the At-Large WHOIS. Remember, what we're trying to do here is converge two existing standing Working Groups for the At-Large – the At-Large WHOIS and the Registrant Rights Working Group. We have to converge what they were supposed to do.

Of course, the convergence is all around the RAA as well as the Registrar Agreement. Then the question is, what do we do, to what end. The rest of the verbiage there is trying to tease out what it is that we think we should do in the public interest, in their views or interests. Now, we have to stop at the top of the hour, so we have ten minutes.

It's a draft. It's not written in stone. If you think that we've missed anything, please do suggest it. If you don't think of it now, the existing Working Group email list still exists, WHOIS At-Large and Registrant Rights At-Large, they still exist, so you can make recommendations for those. This will be on the Wiki. You can also go there in the workspace. Staff will send around all of this information to you again, so you have all of that.

If you have any additions to make to this we'd be happy to hear them now, or you can make them later on on the Wiki or on the email lists, but the objective here is to ensure that we have common agreement on

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the terms of reference for the new Working Group. Now, I'll let Holly lead on what we might call it, because that's still in play.

HOLLY RAICHE:

I think we decided on Registration Issues and left it at that, because that defines the breadth of what we're talking about. It includes the existing RAA, it includes the existing Registry Agreement, it includes the EWG and it includes compliance. With the RAA published in June there are the documents that accompanied it, including the Privacy Proxy Specification, the Accuracy...

So all of those documents together are about registration and compliance with the agreements. As Carlton has talked about, it's from an end user perspective. It's a broad group, a broad set of issues, but it's all to do with registration data, so I think Registration Issues is what we're going to call it. Everybody can put their hand up because it's going to be fascinating. Garth is going to join.

GARTH BRUEN:

I'm in full support of the new format of this Group. I started out working on this issue specifically on WHOIS, in terms of end user consumers frustrated with various issues in the Internet, and WHOIS was a roadblock to resolving those issues. I have since, through my research, found a very large area of failures within the industry, that involve WHOIS but reach beyond WHOIS.

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There are so many issues not being addressed in terms of registrants and even problems that registrars themselves experience. One of the problems that registrars have is that when the WHOIS is bad, domain transfers will fail. If you look at what Compliance deals with, the number one issue is WHOIS inaccuracy.

The number two issue are transfer problems. If WHOIS problems create transfer problems, then the problem is actually much bigger than we even knew. I'm also receiving information from domain registrants, who are experiencing a whole host of issues; with their domains being stolen, with their WHOIS being modified without their permission, and they're not getting the kind of support that they need.

The last thing I want to mention is that the last official standard for WHOIS, the last official RFC, notes two big problems within the WHOIS protocol. Number one is the security issue, which is the one that generates the most debate.

The second issue is internationalization, and I'm finding that this is a huge, unexplored area, where people who do not speak English as their first language, or don't speak English at all, are being marginalized in their domain ownership, because of this. So I think that we need to open up this issue. Thank you.

CARLTON SAMUELS:

Thank you Garth. It's a good thing you mention it, because the EWG work, that's one of the central themes, that WHOIS registration data services must be internationalized, and what we come up with you'll see



will address that very issue, because you're quite right – the existing WHOIS has simply marginalized a whole sect, a whole group, a significant set of our community, because of its inability to scale and handle non-Latin script.

We are very much aware of that in the EWG and we're working here. As you pointed out, Garth has had a lot of experience dealing with end user issues, pertaining to registration data, where registration data is a part of the solution set. So it's a very good source of information to this community, and we're hoping that this new construct that we have is going to be even more effective in dealing with those end user issues. I thank you for that Garth.

It's a couple of minutes until the hour. We have to break at the hour. Holly, any last thoughts?

HOLLY RAICHE:

Nothing, except to say, look, it's going to be a really interesting and probably pretty long journey, but we welcome... I was going to say "fellow travelers" but I don't think I'll use that term...

CARLTON SAMUELS:

Okay, so the next step is that the ALAC is going to meet and we're going to have a resolution presented to the entire ALAC, because this is a standing At-Large Working Group we're proposing. What is going to happen is ALAC is going to take action to accept the definition of a new Working Group, in the context we're proposing. It may be redefined by

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ALAC action, but certainly the objective is we're going to have a single Working Group looking at registration issues.

Thereafter we will wind down these two existing standing Working Groups to the one, and we will more than likely select candidates to lead the Working Groups. Let me say this before I close off – all At-Large Working Groups are wide open. Whosoever will may come, and we welcome every and all inputs from wherever it comes. Our interest is always what advances end user protection in the domain name space. Please do not hesitate to throw in your two cents.

It adds up and it will be accepted, at least in this Working Group, so long as we're attached to it. I'm going to call this session to a close. Thank you all for listening, and for our friends following us remotely, we thank you for giving us an ear. Thank you. Goodbye.

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