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DUBLIN – Thick Whois Policy Implementation - IRT Meeting  
Wednesday, October 21, 2015 – 08:00 to 09:15 IST  
ICANN54 | Dublin, Ireland

UNIDENTIFIED MALE: It is Wednesday, 10/21/2015 in Wicklow H2 for the Thick WHOIS Policy Implementation IR Meeting from 08:00 to 09:15.

FABIEN BETREMIEUX: Good morning, everyone. My name is Fabien Betremieux. I'm from the Registry Services Team in the Global Domains Division of ICANN, and I'm leading the Thick WHOIS Policy Implementation. Thank you for joining us this morning. So this is the session, this is the meeting with the Implementation Review Team of the Thick WHOIS Policy Implementation.

Before we start, I would like to go around the table and account for the IRT members that are with us this morning, as well as experts from the affected parties that have joined our effort. So can we please start maybe with you, Mark?

MARK ANDERSON: Sure. Good morning, everybody. This is Mark Anderson from VeriSign.

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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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FABIEN BETREMIEUX: Thank you. To my left?

FRANCISCO ARIAS: Francisco Arias, ICANN staff.

HOWARD LI: Howard Li, ICANN staff.

JEFF NOTES: [Jeff Notes] with Symantec.

ROGER CARNEY: Roger Carney with GoDaddy.

JODY KOLKER: Jody Kolker with GoDaddy.

FABIEN BETREMIEUX: Thank you very much. So I've received apologies from Mike O'Connor as well as from Don Blumenthal, who are members of the IRT who were not able to join us today, nor join our session remotely.

Talking about remote participants, I see that we have several participants including, in particular, Barry Cobb, who's also

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contributing to – who’s been involved in the PDP Working Group, I believe.

So all right, let’s get started. Our agenda today will be similar to that of our usual session, so we’ll start with a bit of background in the status of our implementation, and that’s in particular for people that may be new to this topic. Then we’ll move on to discuss our current work on one aspect of the implementation, which is the consistent labeling and display of WHOIS output for all gTLDs.

Then we’ll move on to the second aspect of our implementation, which is a transition from thin to thick for .com, .net, and .jobs, and finally, we’ll review our timeline assumptions for this implementation.

So let’s start with the background and the status of the implementation. In this initiative, we’re implementing a set of policy recommendations that were produced as part of a policy development process, which completed its work in October 2013. The recommendation that were made that by the working group and adopted by the GNSO were adopted by the ICANN Board in February 2014.

As part of the policy recommendation, which we’ll review in a minute, there are two outcomes. The transition, as I mentioned earlier, from thin to thick for .com, .net, and .jobs., and the

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consistent labeling of display for all gTLDs as per Specification 3 of the RAA 2013.

Of note, there was an implementation consideration in the final report of the PDP Working Group, which was to propose the decoupling of the implementation of those two outcomes.

So this is just a chart to clarify how the outcomes are tied to the policy recommendations. There are three recommendations that came out of the PDP process, which are, as I mentioned, for the purpose of our implementation, seen as being two outcomes.

So in terms of recent activity and milestone in our implementation work, with respect to the transition from thin to thick for .com, .net, and .jobs, we've released in June a legal review memo, which is a review of law applicable to a transition of data from a thin to thick WHOIS model, and that's in line with the recommendation number three of the policy. And we've discussed this memo and engaged in initial discussion on potential implementation details with the IRT this summer.

With respect to the consistent labeling and display of WHOIS output for all gTLDs, we've conducted an impact assessment of this recommendation and its implications, and as part of this work, we've proposed that the implementation of consistent

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labeling and display be synchronized with other relevant initiatives.

I've discussed this impact assessment with the IRT and revised it, and our revision started our discussion on the synchronization of this part of this implementation with RDAP, and so that's how in June we specifically discussed and proposed that we rely on RDAP for the implementation of consistent labeling and display.

And this is in the spirit of reducing the impact on affected parties and provide opportunities to make, in a sense, economies of scales on changes to implementations of current registry data distribution services, or DDS.

And we've released earlier this month prior to this meeting a draft consensus policy language that we hope can help us move forward our discussions towards finalizing such a policy language for at the end of this process.

So unless there are any questions or comments on this update, let's – sure, Mark.

MARK ANDERSON:

It's just a question on the legal memo is, I know it was released. I think it saw it released as a draft document, and there was sort of an opportunity to provide comments and feedback on that.

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Can you just give an update on the status of that? Will there be a final version of that and are there any next steps? What kind of timeline are we looking at with that? And then anything else remaining.

KRISTA PAPAC:

Hey, Mark. Thank you for the question. Maybe we can get back to you on that. Let me check on the status and we'll get back to the IRT.

FABIEN BETREMIEUX:

Okay. So let's now talk about our current work on the consistent labeling and display of WHOIS output for all gTLDs. So I want to come back quickly on this synchronizing with the implementation of RDAP. We've talked about this representation of what needs to be accomplished as part of consistent labeling and display, what you see on the left is our objective implementing the consistent labeling and display, and that has an impact on what we call the registration data layer as well as the presentation layer.

The impact on the registration data layer is related to the fact that implementing consistent labeling and display will require that some registration data is transferred to the registries for storage, because not all registries have currently an output

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that's consistent with the reference specification for this implementation, which is the Specification 3 of the RAA.

So that will require that some, as we will see in a few slides, that some of that data is [transferred] from the registrars to the registries. So that's the impact on the registration data layer. And the impact on the presentation layer is that the outputs need to all be consistent, so in terms of labeling and display, that's quite clear from the nomination of this outcome.

And so currently, the two complements of that presentation in a sense, are the Web-based output and the WHOIS protocol port 43 output. So what we've discussed is relying on RDAP for that presentation layer, so that registries do not have to make changes – affected parties do not have to make changes to their WHOIS output – port 43 output – and only implement the RDAP protocol as defined by the RDAP operational profile that has been released and that is currently discussed.

And so we would not, as part of this policy implementation, require any changes to the port 43 WHOIS. So this is what we see as the value of synchronizing the implementation with RDAP. Are there any questions on this specific topic? I hear none. I'm not seeing any activity in the chat.

So what I want to do here is take you very quickly through – take you through quickly the document we've proposed, the

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proposed consensus policy language. So we will switch to the document we've shared. Okay.

So I'm hoping that you can decently read the document. We're not going to read the entire document, but I want to give you a sense of what is it that we've shared for discussion with the IRT.

So the consensus policy language is the eventual product of this implementation. It will be the document listed as part of the ICANN consensus policies and will become the reference for the contracted parties' agreements with ICANN. So what we're trying to do here is propose a draft and discuss this draft with you so as to structure our discussion and work to reach this final product of a consensus policy to be published by ICANN.

So the structure of this document is pretty simple. There are two main pieces. What you see here is the consensus policy language we've drafted and we proposed for discussion, and then we have proposed implementation notes. So those are the two main components of this document.

In the consensus policy, we have those three items here listed, and we have a phased plan that we'll talk about, as well. What you're seeing here in terms of consensus policy language, we've inserted the first paragraph as four information. We're talking about consistent labeling and display for now, but in order to help you approach what would be the final product, we've



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inserted this first paragraph, which says the provision of thick registration data directory services is required for all generic top-level domain registries.

That is, the collection and display by the registry of all data associated with both the registrant of a domain name and domain registration itself. What really this is, is pointing to the implementation of thick WHOIS by all registries. So this is quite specific to the transition because what this paragraph means is that .com, .net, and .jobs would be thick registries. So this is not the core of our discussion since we want to be discussing consistent labeling and display at this point, but we wanted to put it here for information and completeness of this draft document.

So in terms of consistent labeling and display, what is really relevant is paragraph 2 and 3. So as you can see, paragraph 2, the labeling and display of all gTLD registries, Web-based, RDDS output must be consistent with Specification 3 of the 2013 RAA. As well as the advisory, what's been called the WHOIS qualification advisory, which has provided some clarification for registries and registrars on the implementation of their WHOIS specification.

And the third paragraph refers specifically to the implementation of RDAP in relation to the RDAP profile as

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becoming a requirement for all gTLD registries in order to achieve consistent labeling and display.

So this is the policy, the paragraphs of the policy, the consensus policy that we are proposing as a draft for discussion, again. And let me mention here quickly the notion of a phased implementation where we see three phases and we've discussed, in particular, the first two phases in prior meetings. Phase one would apply to all gTLDs excluding .com, .net, and .jobs, and that's the case of phase one and phase two because this is only consistent in labeling and display.

The consistent labeling and display of .com, .net, and .jobs would be achieved as part of the implementation of the transition from thin to thick of those TLDs, which would be part of phase three. So phase one and phase two are about consistent labeling and display, phase one would be about making sure that the WHOIS outputs, the RDDS outputs are consistent, not including registrar registration expiration date and reseller information because those would be specifically be the focus of phase two. And the reason why we're separating those two phases is that we need to rely on an EPP extension for the transfer of those two pieces of information from the registrars to the registries.

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So phase two allows more time for that EPP extension to be developed as part of ongoing work at the IETF on this topic. So this is why you can see a proposed effective date for phase one that would be August 2016, and a proposed effective date for phase two, which would be February 2017.

So this is the overview of our proposed language at this point, which again is for discussion, and let me, before we discuss it, if you have any questions or comments, I just want to mention that our document includes implementation notes, which are here to provide some background and more clarification on what needs to be done, so I will scroll quite rapidly to... We have implementation notes for phase one and we also have implementation notes for phase two.

I'm not going to go through them. I will just mention them on a few slides that I have after this. And we also have a placeholder for implementation notes for phase three, we haven't developed, and we'll get to that in our presentation.

So let me stop here and open it for questions or comments on this language that we've reviewed quickly. And before we get to the discussion of the implementation notes. Are there any comments or questions at this stage. I can also through the implementation notes and we can also take questions or

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comments then. Would you like to come to the microphone and introduce yourself?

LUTZ DONNERHACKE: My name is Lutz Donnerhacke. I know I'm late, about ten years late. According to the current discussion and the European Union and the legislation, change in legislation and court orders about data [inaudible] permit to give data from one country to another, I only want to make the remark that in the early WHOIS review teams we had a discussion about ultra-thin WHOIS so that each party has its own WHOIS servers and these servers can be run on the local legislation, follow the local laws of privacy.

And I fear, I always feared, and now I have very strong feeling that thick WHOIS approach is a horrible mistake. I know that I can't stop, but I want to give it a protocol. Thanks.

FABIEN BETREMIEUX: Thank you for your comments. I just want to clarify that this is – we're working through the implementation of the policy recommendation that came out of the policy development process that were adopted by the ICANN Board. And I think that the role of this IRT is to raise and discuss issues that are related to the implementation.

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So I think we are here to discuss the issues and we are – thank you for bringing that perspective into the discussion. So let me move on to the...

So I have mentioned the three phases of the implementation.

On the timeline, this is what it looks like. What we're showing here on this timeline is the current assumption on the implementation of RDAP, as well as what we've been discussing the implementation of consistent labeling and display. You can see here those two phases that I've mentioned. We used to refer to them as consistent labeling and display low impact and consistent labeling and display [PP] extension for the high-impact changes. So this corresponds to our two phases.

And you can see here that the yellow sections, the yellow here refers to phase one, so by August 2016, this could be ready for implementation and then the policy would be effective then for phase one. And then we have phase two in orange, which would be ready for implementation or the policy would become effective in February 2017.

So I mentioned that we, in the implementation notes, we want to help the – let me see if I can fix the display here. Yeah. We want to help the affected parties understand what this means to them, so we've tried to describe and give a sense, for instance, on what would be the impact on registries, and so depending on

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the registry and the TLD, it could mean reordering and renaming of fields in the web-based RDDS. It could mean the possible changes of data formats, and it could mean the display of new fields.

So this, because we're trying to get to a single consistent output depending on where each of the TLDs are, be they a new gTLD or a TLD delegated prior to 2012, they may have different specifications and so the impact on them may be different, but this is the type of impacts that may be faced by those registries.

The registrars would be affected by this implementation, and the impacts on them would depend on which TLDs they're distributing domains for, and what we are expecting is that registrars may need to supply data to some of those registries depending on what is their changes on their outputs, be it study data such as the [abuse] contact, for instance, or registration-specific data such as some contact information or, as we've mentioned, the registration expiration date, or the reseller information.

And the other impact on registrars is that depending on how the registry implements is the necessary changes to achieve consistent labeling and display, the channels for transferring the data that needs to be transferred to the registry may vary. So

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here what I can give you an example here of the type of analysis we've done in our impact assessment.

So we've compared the output of all the TLDs, the specification of the WHOIS output for each TLD or each category of TLD. So here is [two] what is our target – that is a consistent labeling and display with Spec 3 of the RAA. So what you're seeing on this slide is the example of our analysis for the new gTLD registries. So we've compared their WHOIS specifications, Specification 4 of the registry agreement, the new gTLD registry agreement, with the – so that's the currently column. And we've compared that with the Spec 3 of the 2013 RAA, which is our reference per the policy recommendation, and that's the column after implementation.

So what you're seeing here what is green is fields that won't change over the next Web-based output. In blue is what the data that's already existing but that may need a different labeling or potentially a different format. So format is not an issue here, but it's more of labeling. And what's red is either information that's missing and that will need to be displayed. That's mainly what it is – missing information.

So you see here that for instance, for new gTLDs, with this, the implementation of consistent labeling and display will mean is that they will need to change the labeling of what they currently

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have as domain ID or WHOIS server or referral URL, or sponsoring registrar and registrant ID. And I think we have more changes in, as well – admin ID, tech ID.

So that's going to be labeling impact, just changing the label of that field. And in terms of new data, we have the registrar registration expiration date that will need to be included, and we have the registrar [abuse] contact and reseller information, as well. So this is, again, only for new gTLDs, and I just wanted to provide this as an example. Mark?

MARK ANDERSON:

I'm just looking at the registry expiration date and the registrar registration expiration date. Those aren't necessarily the same, and you have them listed as new data but I would – sort of reading that, I would take that to mean the registry expiration date goes away in favor of the registrar expiration date. I'm not sure that's desired.

FRANCISCO ARIAS:

This is Francisco Arias from ICANN staff. I think there is a typo in the slide. What is meant is that you will have the registry expiration date but the registry expiration date doesn't go away.



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JOE WALDRON: Can I just follow up on that just to make sure that we've got this clear. This is Joe Waldron from Verisign. So you're saying that in the entry after implementation on the slide, which is registrar registration expiration date, that should be what?

FRANCISCO ARIAS: There should be two fields there. Yes, registry expiration date. Yes, it's missing the registry expiration date.

JOE WALDRON: So this is the example of what the WHOIS output would look like for both registries and registrars?

FRANCISCO ARIAS: I believe the policy is only changing registry output. Am I correct? Right. The policy is only affecting the gTLD registries, so the registrars do not have to change.

JOE WALDRON: So maybe I can ask a registrar. Do you currently provide both registry and registrar expiration dates? Sorry to put you on the spot.

JODY KOLKER: I believe we only show [our] expiration date on [our] WHOIS.

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JOE WALDRON: So maybe we can just take this offline to make sure that we reconcile any of the issues. Thanks.

DAN HALLORAN: It seems like a good thing to discuss here because this is a new world to think where, in my experience, I've seen a lot of WHOIS records, and usually if you're looking at a registry, they show you the registry expiration date. If you're looking at a registrar, you see the registrar expiration date, which could be a little confusing for users, maybe. But now, I don't know if this is going to help people or confuse things further. What would a user think if they saw those two dates?

And sometimes, there's an explanation. I think VeriSign, maybe there's a little explanation at the bottom about expiration dates. I've seen that some registries, the registrar expiration date might be different or registrars might say the registry expiration date might be different. So I think it's worth talking about.

JOE WALDRON: All right. So we could talk about it, and I think part of the reason that there has historically been differences is where the registry is done on auto renewal, and we extend that term, and the registrar may not reflect that in their WHOIS. So I think it may

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add to end user confusion if in the WHOIS records that we're showing, we're identifying that there are two different expiration dates.

So I guess I'd want to know what we're trying to accomplish and why we're changing the behavior, so what's driving that need to have both of those dates.

FRANCISCO ARIAS:

So the attempt here is to implement the policy and this is what's our attempt to implement the part where it says that the output of [inaudible] has to be consistent with the format in the Spec 3 of the 2003 RAA, which include this field, the [registrar ] registration expiration date. But of course, if there is better idea how to do that, please.

FABIEN BETREMIEUX:

So Mark, to you, and then I think we have a question from the chat.

MARK ANDERSON:

I just want to emphasize the keyword there: consistent. That the policy was not make the WHOIS output exactly the same as what's in the 2013 RAA. It was to be consistent with what's in there. We picked that at the time, keeping in mind that both the

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2013 RAA was not finalized when the PDP was going on, nor was the new gTLD registry agreement, so we had non-final documentation to work with.

But the PDP felt it was important that we have a consistent output. But again, our intent was not to say, “It has to be exactly the same.” The language in there is consistent, not exactly the same. Thank you.

UNIDENTIFIED MALE: All right. We have input from Loran Gradden from the remote participant. He’s from Cum Laude Registrar. His question is, “I also see the server status as missing from post implementation. Would that still appear?”

FABIEN BETREMIEUX: Yes. So I think Lorna is referring to the last... So right before registrant ID, we have domain status server update prohibited that doesn’t appear in the output of the after implementation. I don’t think this is to mean... And that’s the difficulty with examples. This is not to mean that server status are not shown anymore. This is just because we’ve taken the example output in the Spec 3 of the RAA and the example output of the Spec 3 of the RAA 2013, so we haven’t created a new example of exactly what it would look like so we were just comparing.

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So to answer the question directly, no, the server statuses would still be displayed. Obviously, this is just because there can be a viable number of the statuses, and so this is what our example comparison here shows, but it's not meant to mean that there would not be servers, there would not be – that we would not have the server status anymore.

Does that make sense? Does that answer the question? Okay. Hopefully, it does. Any other questions, comments?

As part of our implementation notes, I want to also mention that we've made a note for the specific situations of [.cat], .name, and [.tell], who have specialized WHOIS-related provisions in their registry agreement. And we will need to look into more details here as to how those provisions interact with the requirement of consistent labeling and display. So this is an area that needs further work in addition to any of the topics identified.

So I think the reason why we mentioned this implementation notes and we bring those here is that we'd like to hear from you in terms of additional considerations that should be in those notes or elements that need to be clarified. So I think we've identified that we need clarification around the registry expiration date, we may need other clarifications, so I think this is an opportunity for you to contribute. There will be other

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opportunities but I'm mentioning it here so that you're aware that we are seeking your thoughts on this and your input.

So before we move to discussing a transition from thin to thick for .com, .net, and .jobs, are there any comments or questions on consistent labeling and display? I hear none. I don't see any questions in the chat, so let's move on to the second outcome of our policy, which is the transition from thin to thick. And as we've mentioned, for .com, .net, and .jobs.

And as we've mentioned, we see this as a phase three in the consensus policy language that we've drafted and we've proposed for your consideration.

We've started discussing the implementation details after the draft of the legal review memo was posted to the IRT, and among those considerations, we've received a number of questions. So those questions are listed here.

Should the processing of existing and new registration be distinct as part of implementing the transition from thin to thick?

Should conflict jurisdiction be considered at registrant or registrar level? These are that, as a mechanism to mitigate conflict jurisdiction consistent with the policy recommendations, so I think that's a question we've brought

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ourselves. How should the implementation plan account for Section 3.3.1 in the 2013 RAA, which mandates port 43 WHOIS for thin registries only?

If privacy proxy services may be an alternative for transferring data, could there be an option for transferring domain name registration in case such services are not offered by registrar record? Which parties would be responsible for implementing potential regional data stores that was proposed as part of the legal review memo?

So those are questions that are currently open that we would like to further discuss and gather more input for consideration and drafting of implementation notes in draft consensus policy language we shared. Mark?

MARK ANDERSON:

I'd like to jump in on the first one. Should processing of existing and new registrations be distinct? I'd like to very much encourage us to take separate paths on those things. I think they each present different challenges. There's no reason to tie one to the other. I think they can be handled in parallel and separate tracks. So I think just to clarify, we're talking about a transition from new registrations going from requiring or not allowing thick data at all to making it optional and ultimately requiring it for the existing thin registries.

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And then the first part of that, the processing of existing, we're talking about the back fill of data for existing registrations. I think they present very different challenges, and we shouldn't tie the two together at all.

JODY KOLKER:

I would agree with that. It's going to be very difficult to... They should be separated because with the existing registrations, that's going to take a very long time to get good data into that area. As you know, WHOIS was the Wild West with how contacts were displayed for a very long time, and when transfers would come through to new registrars or to registrars, that data was very hard to parse, which meant that the data most likely did not get in correctly into the registrar's database, and now registrars are going to be required to clean up that data, and it's going to take a very long time.

With .org, I think we did this ten years ago. Is that right? I think there were under 1 million registrations for .org at that time, and we're talking about 100 times greater than that now, and with .org, I believe we were still seeing existing registrations being transferred into GoDaddy that had bad data. It was at least a year after the transition had started and I believe it might have been a couple of years. So it's going to take a very long time to get the existing registrations cleaned up.



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FABIEN BETREMIEUX: So I understand that we have this question that has certainly work or any substantial discussion in the work. Are there any of the other questions? Do you have any comments on the other discussion questions or new ones that you'd like to add to this list?

JOE WALDRON: So just to kind of add on to Jody's point. I understand the work to get the data cleaned up, but I think that we also have to recognize that the work necessary for the consent requirements that we talked about last time when we met face-to-face is something that is a different challenge for existing registrations than it is, perhaps, for new.

So with the new registration, whatever those terms are can be presented to the registrant at the time of registration, but depending on the assessment that the registries and registrars conduct on their requirements for consent. I know that we've heard feedback from a number of registrars that they believe that they have to get explicit consent from each registrant, so that is, again, something that is a heavy lift for registrars, especially when they're getting that information through their resellers. So I think the reseller component is something that I

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appreciate you bringing up because I don't think we've discussed that aspect previously.

FABIEN BETREMIEUX: I think that's a nice segue into the second question, which is how where should those legal challenges in terms of obtaining consent or requesting consent and identifying potential conflict jurisdiction should be a registrant or registrar level consideration. So I think it would be interesting for us to get some sense of what registrars think about this specifically, as well.

JODY KOLKER: I was just wondering. Could you explain the conflict jurisdiction?

FABIEN BETREMIEUX: So I think the concept of conflict jurisdiction comes from the recognition of the legal review memo that there may be legal obstacles to transferring data, and that in this case, those would be considered conflict jurisdiction for which there may need to be mitigations implemented as part of the transfer from thin and thick, and that's when, for instance, RDAP came in as a consideration for such mitigations or the regional data storage, for instance, as notions that were proposed in the legal review memo.

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Does that clarify the question?

UNIDENTIFIED MALE: Sorry, but I think we've talked already about this during the PDP and the working team. I didn't think it was a problem anymore, so...

FABIEN BETREMIEUX: For the record, can you state your name?

UNIDENTIFIED MALE: [inaudible]. Sorry. Is that really still a problem? Because at that time, we have discussed that and as when the people were registering domain names, they were accepting terms and conditions from the registry, and that they allowed us to transfer some data. No?

JOE WALDRON: So I think we did talk about that last time and I think the issue is, especially when you're backfilling data, without knowing what the registration agreement was at the time of the registrant accepted those terms, the ability for a registrar to transfer and for the registry to store and display that data may not be covered under that consent that the registrant granted at the time of the initial registration, and that's where the feedback

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that we've gotten is we've gone out and talked to a number of registrars that some registrars believe that they will have to go obtain that consent individually from each registrant.

UNIDENTIFIED MALE: That could be done at the renewal time, maybe, which makes us easier, it makes our life easier. I'm sorry – our life easier to wait for one year, and then [inaudible] transfer the and the acceptance and the renewal terms. Or if we are in a hurry, okay, it's a problem. But if we are not in a hurry, and we are not in a hurry because this working group has been lasting for a long time.

JOE WALDRON: Yeah, I think we have considered having a problem where it was done at renewal. That does present a problem, perhaps, with those registrations that have multi-year registrations, so you potentially could be – it could be a ten-year problem.

Now that's not the majority of names, I recognize that, but I think part of the question is what works best for each registrar and I'm not sure that I'm in a position to make that judgment.

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ALEX SCHWERTNER: Alex Schwertner from Tucows. I'm not sure if we can do a lot about this in this group because it's really about the terms and conditions that every registrar has with their customer. We have no idea how that situation may actually play out with the individual registrar.

Also, I would see that if you have used the uniform registration agreement, and you have offer.org, you would be in a position to have transfer registrant data to a registry anyway, and would have needed to collect consent to doing that.

To me, the case seems to be primarily with registrars who have offered exclusively thin registry TLDs, which is common for the past, I don't know, ten years. So I don't know how big the problem really is, and even if there is a problem, I think we could only solve it on a registrar level by looking at the agreements we have and figuring out a way how to obtain their consent if we deem this consent is necessary.

JOE WALDRON: Well, I'll give you an idea of what the potential scope is that I think the last I saw that we had somewhere north of 1,500 registrars accredited and operational for .com, and I don't think there's any other registry that has that. So there certainly are going to be registrars that will be impacted because that may be the only TLD that they're offering.

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And I'd also say that, as a registrant, where I've gone in and read the terms and conditions for several registrars where I've registered names, there are often callouts on a per-TLD basis. So I think it is something that has to be looked at on a registrar-by-registrar or whoever is executing those agreements with the registrants to ensure that the consent requirements that were discussed in the legal analysis are met.

I think that's not a simple task when you look at 1,500 and I saw a post that now there are 2,000 accreditations or more than that. so we're still seeing additional accreditations come in, so the problem is getting larger where you've got a lot of registrars that are only selling com and when you've got 2,000 registrars around the world, each with registrars most likely in multiple jurisdictions, it just becomes an issue that I don't think that it's really something within the registries' purview to try to understand that complex relationship.

ALEX SCHWERTNER:

Joe, I don't want to play it down, but just to inform the discussion, coming from a wholesale level, we see a lot of registrars who may be accredited for [com and net] themselves, and then still offer the other TLDs as a reseller through other registrars. Will they still cover it in their agreements even though they're not accredited? Just to inform the discussion.

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FABIEN BETREMIEUX: Thank you. I think we're seeking that sort of discussion and input that you're bringing to the table. So I don't know if you're aware, but we've tried to bring more participation from registrars, in particular in an expert, what we call the group of experts from affected parties. So if you would be interested to join our discussion on a more regular basis, that would be helpful for us. Thank you.

Are there any other questions that participants would like to discuss on this slide? I'm thinking the next one is RDAP.

UNIDENTIFIED MALE: Are you going to RDAP now? Okay. That's where I was going to go, so great. I'll go for it. Yeah. So we talked about RDAP last time, and I think, Fabien, you showed a great slide that kind of showed an alternate path that relied on RDAP where consent was not obtained, for whatever reason, either – well, I won't go to the reasons.

And I know that there is separate work going on related to RDAP here within the IETF. I mean, there's still a lot of active work going on. So I think that this is something that is worth exploring, so I think that we do need to stay very closely aligned with the RDAP work that's being done to ensure that we don't

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have divergent paths in the development of the, what's it called, Francisco, the RDAP?

FRANCISCO ARIAS: Profile.

UNIDENTIFIED MALE: Profile.

[PETER]: Good morning. I think this is the time for my intervention. It will be very short. My name is Petter [inaudible] and I'm coming from the Council of Europe, representing the TPD, which is an advisory body of the Convention 108 data protection and previously.

So I'm very new in ICANN, and basically just I wanted to disseminate the message that the Council of Europe really would like to get involved, if need be, into ICANN's work from that perspective of data protection and privacy because these are hard issues and I'm listening to your conversation, and definitely, I don't want to go into details now, but I think there are some considerations that maybe we can bring at the table.

So I don't know, maybe this is because I heard some opinion and maybe it would be best that the registrar's level, but as it's an



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implementation strategy or implementation working group, maybe as... My personal opinion, is always good to input as many details in the implementation to facilitate data controllers, as you call them, fulfill their obligation.

So that's it. I will stop here now. I just wanted to convey this message so we are ready to work together. So please feel free to contact us at any time, and definitely, we will be around and have ICANN developing its policy the best it can. Thank you.

FABIEN BETREMIEUX: Thank you. Can you, just for the record, restate your name so we make sure we have your information?

[PETER]: Yes. My name is Peter [Kimpiana] and I have [course cards], which I will [inaudible].

FABIEN BETREMIEUX: Thank you very much. So coming back to the specifically RDAP topic, I think hopefully we also would like to get a sense of what you think in terms of how RDAP would be consistent with the policy recommendations. Because that's one of the reasons why we raise this topic. We really would like to hear what the IRT thinks of this topic.

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MARK ANDERSON: I think this is very interesting. During the PDP, I don't think we spent a lot of time talking about mitigating conflict. I think if you look at the question as it's written, is it consistent with the policy recommendation? I mean, I'm not sure it is, but more just because we didn't have this as a mechanism at the time we were going through the PDP. I think RDAP gives us some tools we didn't have or didn't even really envision we had at the time.

So is it consistent? I don't know that it is or it isn't, but I think we should consider it. Because like I said, it gives us some tools that we didn't have and it gives us some options that we didn't have that I think will be valuable as we go through this process.

FABIEN BETREMIEUX: [inaudible].

UNIDENTIFIED MALE: Just on the other line, how should the implementation plan account for Section 331? Can you just summarize for me what Section 331 is? Because I know you know it by heart.

FABIEN BETREMIEUX: I actually don't, so I'm happy that I wrote it on the slide. I've tried to make it clear by mentioning that this is a section that

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mandates port 43 WHOIS for thin registries only. My understanding is that 2013 RAA registrars are mandated to maintain a port 43 WHOIS output only for thin registries, which means that when .com, .net, and .jobs are transitioning to thick WHOIS, that provision would not – the requirement for providing a port 43 WHOIS for those registrars would not exist anymore.

And so I think that the question here is how does that get integrated into the implementation plan and what does that mean for those registrars practically?

UNIDENTIFIED MALE: If you want my advice, maybe I don't have the same advice, but as soon as possible, let's get rid of it and let's leave the registries, carry the WHOIS things.

ROGER CARNEY: The way I interpret the 2013 agreement and this policy recommendation here is that yeah, I mean, we're going to stop or we get the option to stop supplying port 43 but the way I read it also is registrars won't have to support RDAP servers, either.

The policy says com, net, and jobs aren't part of phase one and two, so we only had [inaudible] port 43 until thick is done for com and net and jobs. Meaning, we don't have to do RDAP, as well, if we choose not to.

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FRANCISCO ARIAS: So yes, a couple of days ago, we were talking about this after another session. Yeah, it's a good point. We haven't had time to review in more detail. So far, on the RDAP side of things, the draft [RDAP] profile that we have a discussion is currently considering there would be implementation of [inaudible] in both registries and registrars. But it is certainly something that we need to discuss in more detail. Thanks.

MARK ANDERSON: Correct me if I'm wrong. I believe the way it's written it's the obligation for port 43 goes away with once the registry is transitioned from thin to thick, but the obligation for a Web WHOIS is still there, and the option is that registrars could operate their own WHOIS services or they could have a Web front end that points to the registries', port 43 systems.

So I think the implementation here is that registry, since we're tying RDAP to this, I think the implication is that registrars would have the option appointing their Web front end at the RDAP back end. I think that's the real implication here that we're talking about. Correct me if I'm wrong here.

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ROGER CARNEY: Mark, you're saying that registrars could point to the RDAP back end, meaning VeriSign's or Donuts' or whoever's, right? Okay.

MARK ANDERSON: Yeah. I mean, I think my understanding of the way it's written is it's up to the registrars. The registrars can choose to operate their own based on their own authoritative data, or they could have their Web front end point directly to the registries and be the front end, but the Web requirement doesn't go away. It's just the port 43 requirement that is no longer applicable.

ROGER CARNEY: And then I agree with how Mark's reading that because that's the way I read it, as well.

FRANCISCO ARIAS: So just to see if I understand what you guys are saying. The proposal that I'm hearing is that you're saying a registrar could implement –would have a simple implementation on RDAP that will simply provide [redirections] to the whatever the registry is of the name that has been requested. Is that what he's saying?

UNIDENTIFIED MALE: And I think we get back to just for the Web interface because that's all that we would be required to support. We wouldn't

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actually have to support any responses to any WHOIS, 43, or RDAP server request. We would only have to respond to Web requests.

MARK ANDERSON: They wouldn't actually need an RDAP instance at all because your Web interface essentially becomes your RDAP client. Web is an RDAP client so they'd be able to basically create a Web front end for the registry's RDAP instance.

FRANCISCO ARIAS: Okay. I think I know what I was getting wrong here is that the confusion by the fact that RDAP is a Web service but I think how I read the contract, there is a call for a Web-based WHOIS, which I think is a different thing. That's the requirement that stays with the registrars and the registries have. Also, that's referring to, let's say, a pretty HTML page where common user can do WHOIS requests, and there is RDAP, which is we could consider here as a separate service.

So what you're saying is registrars should not do anything on RDAP.

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ROGER CARNEY: I'm just suggesting they're not required to. I mean, if they choose to provide their own service, that's fine. But the way I read it, they're not going to be required to have to have an RDAP server. Just the Web interface.

MARK ANDERSON: Yeah, I'm nodding my head. Yeah, that's my understanding, as well. That's how I read it. Also, I mean, it's redundant at that point. Right? And so it wouldn't serve any purpose for them to have to maintain their own. It's redundant and it presents the possibility of having out-of-sync data, which is certainly one of the things we wanted to avoid as part of the PDP is not have out-of-sync data.

FRANCISCO ARIAS: So to your point, Mark, I guess it makes sense. You're saying there is no need if you have only relevant data. But if we look at the bullet number three here, if there was at some point a decision to use the RDAP linking feature as a way to mitigate the conflict jurisdiction issue, then I guess you don't have redundancy there, the registry is – it will be.. Has a set of information only the registrar has.

So we're saying in those cases, if we were to choose to go that path, the registrar will still have to provide RDAP? It's a question.

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MARK ANDERSON: Yeah. I think that's a great question. I think that gets back to what I said before where a tool we didn't have at the time, and we certainly didn't contemplate anything remotely like this during the PDP process, but I think it's something we should consider because it's a tool in the tool belt. It's a tool we didn't have before. It's an option we can consider. But like I said, the way the bullet point is written, is it consistent with policy recommendations?

It's not, because we didn't consider it at all, but from an implementation standpoint, I think... And certainly with the attention and concerns around privacy, I think it's absolutely something we should consider and something we should consider a lot more as we go through this process.

JODY KOLKER: I'm just curious. Before port 43 is turned off at the registrars, is there going to be some kind of approval process? What I'm concerned about is that if you're trying to gather contact information from a registrar that has maybe turned off port 43 WHOIS but hasn't uploaded all of their data yet, what can a registrar do?



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FRANCISCO ARIAS: Just a clarification question. Are you talking about... You're not talking about the turning port 43 off after RDAP implementation, right? You're talking about turning off port 43 for a registrar in case a registry that is thick. Is that what you're asking?

JODY KOLKER: Yes. Well, I'm talking about turning it off after – I guess, we're kind of discussing, as we talked about, is that once .com, .net, and .jobs is thin – or thick – all the data is at the registry, and a registrar turns off 43 WHOIS. I mean, that will be fine.

What if port 43 is turned off by a registrar that hasn't completely uploaded their data or they thought they thought that they completely uploaded their data but another registrar is trying to get transferred data or contact data in order to reach out and do an FOA on a customer, and there is no contact data because it hasn't been transitioned yet to VeriSign and the port 43 has been turned off. Just go through the regular ICANN path of I can't get WHOIS data?

JOE WALDRON: That, I think, is a point. So I have at least part of the language I'll read here. Registrars shall provide an interactive webpage with respect to any gTLD operating a thin registry, a port 43 service providing free public base queries. I don't think the language is

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specific enough to say at what point do you have the option. Right?

So theoretically, you could say, “As soon as the registry supports thick, that you have the option to turn off your port 43 access.” I don’t think that that’s the intent, though. I think the intent is that when all of your data has been migrated, that you would turn it off. But I don’t know that that’s up to this working group to specify the exact conditions. That’s a good discussion point, perhaps, but I guess the way I would interpret this is that on a registrar-by-registrar basis, you would make the decision about when and if you would ever turn it off, when and if you would implement RDAP because what we talked about last time was having kind of an RDAP alternative based on a certain consent scenario.

So I think that there may be various models that apply to registrars, but ultimately what needs to happen is the registry needs to have thick data or have access to that thick data through an RDAP model, and then I think it’s really on a registrar-by-registrar basis. So if it takes you ten years to backfill the last record, then that’s probably the time that you can turn off your port 43 access. If you get it done in a week, good for you.

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UNIDENTIFIED MALE: [In fact], the real problem is you really want to do your job very good, okay, you wait for ten years or you wait for five years, but then sometimes we also rely on some other registrars who don't really care and would want to shut it down like the day after and when we want to transfer it's going to be complicated. What would ICANN be able to do maybe with escrow, data escrow?

Because you have all the data. Well, I mean, in the data escrow. We have to send you every week all the data for all of our domain names. So I don't know if you – no? You don't think it could be used as a backup plan?

ALEX SCHWERTER: I don't think we want to go down the road of ICANN providing a centralized WHOIS for all domain names from whichever [inaudible]. I don't think we want to do that. I think you can read the language to enforce port 43 WHOIS for a name that hasn't been transferred or uploaded to thick WHOIS just by the language [as it stands right now] because it says you have to provide it for all registered names under your registrar.

So I think if the registrar is not compliant, even though it's cumbersome, you could go down the route of ICANN compliance to enforce it.

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ROGER CARNEY:                   Isn't that in our purview here, though, just to clarify that in our policy? I mean, we can say, "Hey, until new registrations are completely over, you must maintain 43." I mean, isn't that something we can say in our policy?

UNIDENTIFIED MALE:           I think this is a type of discussion we want to have, and potentially, that's valid question and consideration for the policy language for sure.

FABIEN BETREMIEUX:           I just wanted to do a quick time check. We have five minutes left. I've just in overall timeline slide to show in terms of timeline assumption. I just want to make sure if you have any other discussion point, let's take another two minutes so we have those two or three minutes at the end before our time ends. Any other questions, comments on the potentially the other questions we have here? No. Okay.

Thank you. I think this is a very valuable discussion and we're grateful for your sharing your perspective on each of these questions, and we'll certainly keep the discussion going.

So in terms of timeline, in August, we shared the current assumptions then. We've shifted a bit the timeline since time, obviously.... Sorry, we've adapted our – so there's been a shift of

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time perspective here in between those two slides. This one did not have 2017 on it, and this one has now.

Because of those discussion we're having, we expect that we will probably need more time that we expected last time we showed this timeline, so our current assumptions, although there are certainly – will depend on our discussions and our finding – completing those discussions. Currently, we expect that this is the timeline, what it would look like.

I think we've had discussions before where a year, a year and a half timeline to implement the transition would be kind of a minimum, so this is kind of the assumption we're maintaining in all this.

What this means in terms of overall timeline assumption for the implementation of this policy and all its components, I'm just here merging the two parts of the timelines we've seen throughout this presentation. RDAP, again, as our reference for synchronization. I think there is a session later today regarding RDAP so any discussion of that part of the timeline may happen in that session.

With respect to the implementation of this policy, consistent labeling and display, I've mentioned the two phases with a first policy effective date for phase one, which would be August 2016. That's what is in yellow here, consistent labeling and display

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low-impact implementation. And the phase two for what we used to call the consistent labeling and display high-impact implementation that would be effective... We assume this could be effective in February of 2017, and as far as the transition from thin to thick again, that will need to be clarified. But currently, we're expecting that be implementation would be carry across 2016 and 2017, if applicable.

So this completes the – sure.

KRISTA PAPAC:

So I think, if I'm not mistaken, Fabien, we need some input from the IRT on the consensus policy language. What's the timeline for that? What do we need from them by when? And then with respect from transition from thin to thick, I think we had a really good discussion in here, but we can't... I think, it sounds to me like we need still more discussion or information in order to get to a place where we can talk about policy language or next steps.

So if maybe we could just clarify what we need from them and what the next steps are with respect to consistent labeling and display as well as transition from thin to thick.

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FABIEN BETREMIEUX: Yeah, thanks, Krista, for clarifying. And I think in immediate term, we are certainly are seeking your input on the draft consensus policy language we shared so that we can finalize the consistent labeling and display part, and we can then push it for public comments in parallel the RDAP operational profile be submitted for public comments.

So we will communicate on the mailing list and propose a deadline for you to provide your comments, and then we'll certainly organize a meeting after the deadline so that we can discuss the comments we've received.

So given the fact that we are currently planning for a public comment period that would be starting before the end of the year, we would certainly appreciate if you could provide your feedback quite rapidly in the next two weeks. We'll confirm that on the mailing list but I think that would be the type of timeframe by which we'd like to have your input.

So that's on the draft consensus policy language for consistent labeling and display. So that then we can discuss your feedback and potentially come to a final version that can be submitted for public comment. Does that cover you mentioned regarding transition?

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KRISTA PAPAC: Next steps.

FABIEN BETREMIEUX: So I think, yeah, on the next steps on the discussion, I think we'll use that opportunity to create to discuss your input on the consistent labeling and display for further discussions on the details of the implementation for the transition.

Joe?

JOE WALDRON: Sorry. One last question, if I may. So I think a lot of people have seen the information that's been out recently about the EU ruling about Safe Harbor, I know we've seen some, at least to me, fairly new information about the – I know it was referenced in the – a number of these were referenced in the legal guidance, but specific information about what the Russian privacy laws are now requiring in terms of that information being retained within databases held within Russia.

So I'm wondering whether those types of issues are appropriate within this group – or I know there were a lot of discussions in there's a GAC Public Safety Working Group, there are a number of different initiatives going on. So as we are doing the analysis from the registry perspective and the registrars are looking at consent as it relates to the receipt, storage, transmission,



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display of all of the data, this really goes beyond the transition of .com and .net to thick. It really is a much broader impact.

Now this consensus policy applies to all gTLDs, so I'm just wondering how you think we ought to address that or have we considered that? I mean, I didn't frame that question very clearly, but I just see a lot of churn right now in the privacy world in terms of what new laws are coming up. I know the EU is supposed to have new regulations out by the end of the year.

As we're trying to get our arms around the risk to our company in terms of receipt and storage and display of the data, it really does go beyond just this consensus policy work.

KRISTA PAPAC:

Thanks, Joe. So I know there have been new developments very recently related to – I'm not as familiar with the Russian references but related to the EU and their recent... I don't know ruling is the right word, but related to Safe Harbor. And it's something that we are looking at from a staff perspective across not just this particular project but how it affects all of our contracted parties, so not even just registries and registrars, but anybody that ICANN does business.

So there's sort of an overarching project or discussion going on inside the company to evaluate that. I think that these are –

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they're also good questions with respect to this policy implementation and I guess I would actually – you guys are the Implementation Review Team. You're here to help us help you, for lack of a better way of putting it, and theoretically, if not arguably, you are part of the development of the policy recommendations.

And so if there is something new that's coming up that you think impacts that, I'd almost turn the question back around to you. Sorry to do that. But what are your thoughts on that? Is that something that needs to be further discussed back in the GNSO or is it something we can address here? Again, I would maybe look to the IRT to hear what you guys think about that.

JOE WALDRON:

Yeah. So I think you kind of got to the core of my question, which is should we declare that as out of scope? Is there a component of that that we should be referring back and saying, "There's a lot of information here that is something that really is outside of the charter of what we've signed up to for this IRT?" So when you start looking at the scope of all gTLDs, other contracted parties, I'm not sure that that's something that I'm prepared to tackle within this IRT.

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So I don't want to derail the work that we're doing here for all of that other activity that's going on, but I think we need to recognize that. And I don't know what the right solution is.

FABIEN BETREMIEUX: Thank you for your comments, Joe. Thank you all for joining our session and then sharing your perspective on the implementation, and we'll certainly be in touch very shortly. Thank you, again.

**[END OF TRANSCRIPTION]**