

**ICANN Brussels Meeting
WG Update to Council re the IRDW and the RAA
TRANSCRIPTION
Sunday 20 June at 0900 local**

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Chuck Gomes I think everybody is getting tired. I didn't have to make any threats to get it quiet here this time. So I can relate to that. Okay could we start the recording please? And I am sorry I didn't say stop it at the last meeting. I keep forgetting that. You've figured me out that I would forget that, right? So did you say it has started already? Okay. Thank you very much. So welcome to our next session. And the first part of this session will be the (RAW) report. That's a joint working group with the F(SAC) and the G(P)O.

And I think other participants as well. So, (Jeremy Hitchcock) welcome and I will let you take over.

(Jeremy Hitchcock): My name is (Jeremy Hitchcock) co chair along with (Edmond Shung). A bit of background, this working group was convened (December) of '09. Having data represented in a national (unintelligible). So right now we are (unintelligible) look at the scope of the problem, currently looking at what type of data (unintelligible). Content and (unintelligible) current work is, where we are. What exists out in the wild and what are some of the (unintelligible).

(There) problem is (unintelligible) domain names and (unintelligible) that works out with the lack of any sort of guidance (unintelligible). To a little bit (unintelligible) pretty good representation in terms (unintelligible) what the problem space actually looks like. So we're currently looking at what the

general service requirement is and trying to (unintelligible). Somewhat unique is that (CCCLDs) typically look for registrants (unintelligible).

What the actual submission is (unintelligible). That's basically the problem with (unintelligible) though the (unintelligible) at least from (unintelligible). Label is the Unicode form that would be the first set. Second is kind of an (unintelligible). So who is protocol is kind of a very (unintelligible) protocol is basically a (unintelligible) sort of (aired) representation (unintelligible).

Who is (Port 43)? Does it have this type of (unintelligible)? Still one of the requirements that we (unintelligible). Question part (unintelligible). Second part (unintelligible), question is how can you ask and who is (unintelligible). Protocol (unintelligible) what the actual requirement versus what obviously (unintelligible). Certainly familiar with the (unintelligible). So the local - I talked about a little bit about (applies) user experience (unintelligible).

One (unintelligible) but the actual who is requirements in terms of (unintelligible) and (unintelligible) saying that the domain (unintelligible). But (unintelligible) formats (unintelligible) approaches not only for (unintelligible). Characters (unintelligible). First (unintelligible). This has been something I think that (unintelligible).

Man: (Mike Rodenbaugh). What's your time frame in this group and (unintelligible)? One of the few groups I'm not (unintelligible).

Man: There is always (unintelligible). We - I think the representation (unintelligible).

Man: This is a - obviously this is a design to (unintelligible). This is a (unintelligible). What happens when (these) recommendations are (unintelligible).

Woman: This is (unintelligible). This group is from what I imagine a group that's focused more on the technical aspects of (unintelligible). Will (have) some recommendations and, you know that will go to the (G Next Council) and the

other (supporting) (unintelligible). Need to be a determination based on that report what the policy aspects might be. That would be a decision made in a (Gina Cell) (unintelligible).

This report and this group and in and of itself is not making policy recommendations.

Man: By the way (Mike), thanks for asking the question that I was going to ask. I appreciate you (unintelligible). Not a policy development working group for rather a technical standards and (unintelligible). Kind of technical requirements might be necessary (unintelligible) move forward within a policy development (Mike). Any other questions or comments?

Both of you for - (Edmund) is still down there. Both sharing this and (unintelligible). Policy development work so that (unintelligible). Factory services and so with that (unintelligible). Now we go to (Hex) working (group) (unintelligible) RAA correct? (Steve) it's all yours.

(Steve Mattel): Thank you. I am (Steve Mattel). I am the co chair of this drafting team on (unintelligible). I wasn't quite sure why these two reports came together at the same meeting. But besides the fact that I am on both of these groups. But I think - it's also because neither of them is actually a policy development process. And (unintelligible) policy locations. We're just going to run quickly through some slides that are prepared for the session that we're going to do Monday at 5:30 - 17:30, kind of (unintelligible) session.

And (unintelligible) is the other parts of the plenary are - have to do with law enforcement perspectives or registrar perspectives. So (unintelligible) encourage everybody to attend that. This gives you a little bit of the background. The proceeding what's on here was the register slide debacle which led to a call by the CEO of ICANN. That went on for a couple of years. Then in March - I'm leaving (out) steps. But in March 2009 the GN(SO) resolution for new form of the RAA, but also is part of that is a condition of

that further work done on the RAA and particularly in the two areas in the (colic) bullets there.

Registrant rights and responsibilities chart would be prepared by additional amendment topics and make suggestions for next steps for further amendments to (unintelligible). Resolution adopted to (charter) this group (unintelligible) working since about last September on these two topics.

We have two separate sub teams. I am the chairman of Sub Team B which is (topics) registrant rights charter. (Share) is (Bo Brendler) who unfortunately is not here, have included information (in that) part of the report and hopefully you won't (unintelligible). This and we will start with A (unintelligible) charter (unintelligible), provision in the RAA that says that there is a (unintelligible) statement that all registrars will link to that to the web page.

And what (unintelligible) that's in the report is basically restating what's currently in the most recent (unintelligible) based on a non lawyers guide to the RAA that was developed by the staff. (Unintelligible) has stated here the staff is consulting with the registrars and web page which then (unintelligible). Should have said that the entire initial report is now out for public comment too, so I am just stating what's in the report.

Obviously public comment might come (unintelligible), public comments are (unintelligible). Then there was - I should also say that the other - another thing that - this group (was) the one that was just presented was that this is really like that one which is a GNSO (Abstract) project. This is a GNSO (A Lack) project (unintelligible) most sub teams. And I know in my sub team (it made) a very, very significant contribution (unintelligible).

Their view is that there should beyond stating what the current RAA provides as far as the right (unintelligible) could be an aspiration charter describing the rights that (everything) should be afforded (unintelligible). This is not, you know, adopted by the sub team. This was (unintelligible) working list of some

of the things that should be (unintelligible). And obviously this has some feedback with what amendments might (unintelligible).

Sub Team A and is part of the report but is not operational. Turning to Sub Team B, we did reach out for suggestions and topics there was a public notice of this. And we got suggestions mostly from four areas. First we got a very detailed and I thought very useful submission from the ICANN staff reflecting not on the views of the compliance staff which works everyday with the RAA (unintelligible).

A lot of parts of the staff worked on this and as I said I think it was very (unintelligible) extensive suggestions from law enforcement agencies from five or six countries (unintelligible). They presented their material also - I think they had some presentations on it at the (stole) meeting of (unintelligible). There (weren't) law enforcement members on our sub team but we did have one meeting that was devoted to walking through all of their suggestions with a law enforcement representative.

That was (unintelligible) number of suggestions from a working group of the intellectual property constituencies. (Unintelligible) (Large) also gave us a very detailed (unintelligible) when you see the list of top - priority topics all of these - some of them are drawn - there is a lot of overlap among these four groups. All of them are well represented (unintelligible) clear that the list doesn't cover a few things.

For example, a lot of the suggestions from law enforcements and some other suggestions really didn't have to do with the terms of the RAA. They had to do with the due diligence that would be (unintelligible) process. So before your became a (credited) registrar, you know, the background checks and this type of thing (unintelligible). That was - well I think everyone agreed that was important. We figured that was outside of our (remit) which was just to look at the RAA.

This is (unintelligible) the RAA. I believe the staff was going to be coming out with a revised application form that was going to reflect some of these new diligence (unintelligible). You won't see anything - I think we basically cleared those things off of our list. We went through each suggestion and in many cases there was discussion about whether was this really an amendment that was needed for the RAA? Or was (unintelligible) possible to the RAA?

Or was it a question of better enforcement of the existing RAA? So we kind of asked our expert on this which was (unintelligible) staff to give his (shops) opinion on this. And in general we're - I think pretty much all cases where he said, we think this is basically a compliance matter. And we took that off our list at least provisionally. There was a feeling and it's reflected in the report that (unintelligible) eye on these issues and if it turns out that the 2009 RAA really doesn't provide tools for dealing (unintelligible).

Finally we're asked to flag any issues that we thought were better suited to consensus policy development or involved in current PDPs. And what we did is we didn't flag too many of these issues but when we did we just took them off of our priority list. There are - there were some things that were suggested being dealt with right now by the PEN(E) (unintelligible) won't see these on the list. Obviously there might be other items on this list that council or the (unintelligible) ICANN council (unintelligible).

There are some that could go through the PDP processes but we took out the ones that were flagged as (unintelligible). That brings us to the - I think to the list of topics. And what we did was we ended up - it was somewhat an involved process which is described in the report. But we ended up with a list of 12 high priority topics. These are not in themselves in priority order. Just to go through them very briefly.

Suggestion was the RAA should include a prohibition on cyber squatting by registrars. Footnote if you will - there should be a contractual definition cyber squatting. Second point is that registrars should have a duty investigate and

report to ICANN on action (unintelligible) parties (unintelligible) malicious conduct involving (unintelligible). Third was a requirement for registrars to designate a technically confident point of contact on malicious (unintelligible) possible that that requirement could be extended to (sellers) and to the proxy or privacy services.

Fourth point was to require the registrars to disclose the privacy or proxy services that they make available in connection with registrations that they sponsor (unintelligible). And to make (unintelligible) by those services (unintelligible). Licensee when registration could be cancelled (unintelligible) or license by a proxy service could be cancelled (unintelligible) proxy servers from taking on the responsibility for conduct by the licensee (unintelligible).

Number five fell out in more detail than is now in the RAA. What would be required to privacy and proxy services and (unintelligible)? Delay function and the (fill) function about contact (aid) on registrants who use the proxy services. When then proxy service is presented (unintelligible) that's current standard, clarify that and spell out in more detail what's expected (unintelligible). The sixth point deals with obviously a lot of proxy and privacy services are not really offered in connection with - by the registrar.

They're just independent services someone (unintelligible) licensed it to somebody (unintelligible). And both (unintelligible) suggestion (unintelligible) that each case we have in the report that to cross reference to the matrix in to the particular (unintelligible). Most circumstance where the registrar is not responsible for the proxy service to (live up) to its obligation. But that it does have a responsibility to cancel (unintelligible).

Seventh priority topic was to define the circumstances under which the registrar is required to cancel the registration for knowingly (unintelligible) data. Currently the registrar may cancel it but is not required to. This would (unintelligible). Eighth point would be (unintelligible) requiring compliance with

PCI or some other preexisting (unintelligible). Taking registrations (unintelligible) number of suggestions about verification.

But this seemed to be (unintelligible). Credit cards (unintelligible). Ninth point is to define the reseller. It's interesting that the (unintelligible) new RAA does impose on the registrar some obligations and in, you know, to be responsible for the activities of their resellers. But it doesn't actually define what a reseller is. And several of the registrar representatives on the (unintelligible) (face) this point. And actually added this (unintelligible).

Clarify what registrars were and weren't responsible for. The tenth priority item is to require greater disclosure of registrar affiliates and multiple accreditations. Also could apply to sellers if that category could be defined (unintelligible). The eleventh point again was highly reflected in a lot of the law enforcement proposal and (some others). What (unintelligible) greater disclosure of (unintelligible) contact information (unintelligible).

This is (unintelligible) (Franklin) was already in the agreement so (unintelligible). Final high priority item was to clarify registrar responsibilities in connection (unintelligible). Main focus here is setting time lines for registrar response both at the beginning of the process when they have (unintelligible) and then at the end of the process after a successful UDRP (unintelligible).

Problem areas and in part because the (unintelligible). So those were the main issues that we identified. (Called) from actually a (unintelligible). Our first run through we ended up with such a large number of high priority items we obviously not (unintelligible) second cut through and ended up with (unintelligible). Didn't make the cut and as we call those medium priority items and (unintelligible).

Both of the suggestions we've received and that (unintelligible). On the next slide you see I think the suggestions - how we dealt with the other assignment which was to suggest the process that should be used for next

steps (unintelligible). A lot of agreement within the group that there should be (unintelligible) there needs to be more reporting (out) about taxed - proposed taxed and definitely disagreements about who should be in the room.

Wrong support position, again you (unintelligible). Observers representing the interest of the respected non parties in the negotiation (unintelligible). Opposition to that from the registrars on the group who (unintelligible). Sub team members specifically (wanted to) be (recorded) (fourth) position was not strong enough. And the third parties should be participants (unintelligible). So this is not something where we are obviously (unintelligible) does show the strong support for (sullies) process (unintelligible).

Calls for the non party observers to be in the room in the discussions (unintelligible). On whether the (unintelligible) to be (unintelligible). Briefly runs through the report they (unintelligible).

Man: Thank you (Steve). I will take a queue. I know (unintelligible). Twelve items, what level of agreement (unintelligible) categorize those by the three categories of support?

(Steve Mattel): Well I should say that what we were asked to do is identify topics - appropriate topics. We weren't saying all of these points should be in the RAA. But that these topics for consideration.

Man: Oh. Okay.

(Steve Mattel): And I would say it was (unintelligible).

Man: So that was (announced) to support that those are good topics to have there? Okay. That answers my question and it helpful. Could you go back to the one through six? On a - oh why is it number three technically (unintelligible) always need a technical point of contact there?

(Steve Mattel): That actually was one that was added by the group. It wasn't until that - that (phrase) technically confident was not in the suggestions that (unintelligible). There were a couple of members of (unintelligible) sub team who felt it was really important to (unintelligible). Actually had the ability (unintelligible) malicious conduct issue could (unintelligible) this isn't just (unintelligible).

Man: I have no problem with that expect that I wanted (unintelligible). Might not be a technical person but have the authority to make (unintelligible). That the intent that that was pursued further (unintelligible) would be controlled in some way the discussion of that.

(Steve Mattel): This is just to disclose for (unintelligible) servers.

Man: I know that. But I mean in terms of how (unintelligible). Public disclosure?

(Steve Mattel): I think it certainly could be. We're not - and again - we're not disclosing anything about the registrants or about the licensees here. We're saying, you know, the public disclosure if I (unintelligible) privacy or proxy service (unintelligible).

Man: Oh this is not disclosure or the registrant?

(Steve Mattel): No it's not.

Man: Then that answers my question.

(Steve Mattel): Service is not of the - registrants could be disclosed or at least made available by the six, you know, is our existing provision that says (unintelligible) proxy service (unintelligible).

Man: That was helpful, (Alex)?

(Alex): (Unintelligible) of that requirement of information (unintelligible). What if any privacy law enforcement considerations are made and are reflected on the report? (Does) law enforcement privacy (unintelligible) and other (laws) that (unintelligible).

(Steve Mattel): Well thank you for that question. The law enforcement proposals are in the reports so you can see what they're talking about there. I think the focus - groups that - (ten) of them were - I'm not sure the scope of their responsibilities. A lot of them do deal with organized crime issues they deal with cyber crime issues and so forth. Also cover privacy issues, I mean obviously our FBI enforces in the United States privacy laws too.

So I don't know to what extent they were reflected there. They're all kind of laid out in the (text) of what they proposed in (unintelligible) or (end of) tomorrow the program tomorrow at 5:30 there will be law enforcement representative there.

Man: Before I go to (Wendy). Just to follow up on that. The law enforcement concerns were included in this list?

(Steve Mattel): They're reflected in here. I - we didn't (unintelligible) certainly weren't all taken in wholesale.

Man: Right. And you explained some of that earlier.

(Steve Mattel): But yes, they were reflected. And (unintelligible).

Man: (Wendy)?

(Wendy): Thank you. So follow up (first) on (Alex's) question. I understood him to be asking about consumer protection agencies outside of just the law enforcement context. Privacy and (unintelligible) protection?

(Steve Mattel): I don't think so. But you would have to check the list of - which is in the report. The list of the agencies that signed on to the (unintelligible). But obviously this - as I said, this is all out for public comment now. Well I can't say. I am including them as law enforcement.

(Wendy): And a specific question when you refer to malicious conduct and (unintelligible) the registrar duty to investigate. Have you considered how that squares with the distinction between registration of youth and youth - domain name youth abuse that the (unintelligible)?

(Steve Mattel): Well malicious conduct is certainly come up in both areas I think. But the examples that were given were domain names that have been hijacked for fishing, exploits and this type (unintelligible). Identified by let's say the (unintelligible) contact the registrar to try and do something about it. First of all make sure they know who they should contact. And that that person is available.

And (unintelligible) kind of ties in to the (unintelligible) would have an obligation to respond.

(Wendy): So that I am clear, you're saying that's - they have a duty. You're suggesting that they have a duty to respond to malicious use of a domain name more than merely malicious abuse of the DNS system or abuse of registration of the domain?

(Steve Mattel): They would certain - yes. I think that, you know, hijacking the domain name for use (is) probably malicious (unintelligible). Maybe not.

Man: I just think that's sort of a red herring argument that we're gone around, around and around on. And I obviously haven't been very successful convincing folks in the registration abuse policing working group (unintelligible). Cannot be used unless (unintelligible). Hijack someone else's

domain and basically is using it (hiding) essentially behind the real registrants. Real, who is information that that actually is an abuse of the who is records.

And abuse of the (unintelligible).

Man: (Kathy) did you want to speak?

(Kathy): Yes. I have two questions.

Man: I had you down. Go for it.

(Kathy): Thank you. But on that issue actually would be interesting to the (somewhat) hijack a registrant's domain name. Then the registrar may or may not know and probably doesn't know. So contact from the registrar might actually be a good thing because - and then having them respond and having them (unintelligible).

Two questions. First, thanks so much. Sounds like the group has been working for a long time and very hard.

On - number one, on the prohibition or registrar cyber squatting. Just wondering if there are any details about that? And (registrar) cyber squatting is something we've been giving a lot of thought to under the PCRP. I was wondering whether there is any overlap between that?

(Steve Mattel): That probably depends on the outcome of the vertical integration. I think it's recognized that some registrars are directly involved in cyber squatting. (Unintelligible) (feeling) was that that should be a violation of the RAA. And obviously it depends on how it's defined and how that would be shown and so forth but (unintelligible) that should be grounds for termination (unintelligible).

That's kind of the motive what's behind that.

(Kathy): Under the PDD or (P) as it's been really debated and flushed out over the last few months is not holding someone like a registrar liable for cyber squatting that may go on the second level that is not there.

(Steve Mattel): I understand that. And this would not be for a situation where a bunch of registrars in a - using a (unintelligible) for the registrars.

(Kathy): You figure the next slide - the second slide point (unintelligible). Number seven, more for clarification I think. Define circumstances under which registrars are required to cancel registration (unintelligible) any (unintelligible) there for the type of the (system) who is data. I am sorry. For the type of use of the domain name, so if we're talking about a battered women shelter or something where disclosure might actually compromise some kind of (face).

(Steve Mattel): Yes. I mean we (weren't) really get in to that level of detail. But, you know, if we we're referring to the existing provisions of the RAA that say (unintelligible). Registrar may cancel - it's grounds for cancellation of a domain name (hopefully) submits (unintelligible). So the goal here would be to define the circumstance and A becomes a must and (unintelligible), so that could certainly (unintelligible).

Finding those circumstances would certainly take in to account.

Man: Okay. And we need to wrap this up because we're already in to the next meeting. Last comment right here please.

Man: (Unintelligible).

Man: You need to speak closer to the microphone.

Man: I couldn't see the slide from afar. But then you mentioned a (unintelligible) 24/7 for (creditor) requests.

(Steve Mattel): I think that was for...

Man: Credit (all) request?

(Steve Mattel): Oh I see. Yes. Yes. I think there were two separate ones there. But number two I think says (unintelligible) could be - you would have a duty to investigate credit reports received from credible third parties demonstrating illegal malicious conduct.

Man: (Unintelligible) dealing with those (in) different countries. Credibility can be somewhat of a diverse concept. Do you have any guidance from that?

(Steve Mattel): Well no. Not at this point but obviously a lot of things go - happen informally now in the fishing situation that I was talking about and so forth. And so the idea would be to define, you know, (unintelligible). I could take a number of different (unintelligible).

Man: Thank you very much (Steve), and the working group that has worked on this, both groups. Just one parting question, what are the next steps after the public comment period?

(Steve Mattel): I think the next step at that point would be for us to review the public comments and see if that should (unintelligible) changes in the report. And then the report would go to the council. I mean I think it would also be submitted to the (A Lack) and say we're participating. I don't know what their process is.

Woman: If I could comment. The - (A Lack) and the (doors) this initial report - an earlier version of it. I think we would have a final report and it would go to the GNSO council. It would also go to (At Large). And then you, I guess presume it would be some motion on the, you know, what to do about the next step.

Man: And it - is it envisioned that that might be initiation of a PDP? Or is it some other (best) practices approach? Any thoughts on that?

Woman: Yes.

(Steve Mattel): I could offer my thoughts on it (unintelligible) council. But this is not, again these are not necessarily PDP issues. These could take the form of the council calling on, you know, patient process (unintelligible) certain way and it would address certain issues. Or it could take other forms. The council could decide, no some of this really isn't appropriate for contract. At this point it should go to the PDP (unintelligible).

There are a couple different alternatives.

Man: You want to add anything to that (Marquis)?

(Marquis): No. I think that's correct. I mean there is obviously more work to be done. These were just topics to be considered. There is no, you know, priority or...

Man: That answers. I just wanted to have a picture of what's going on. Thanks everyone. (Glenn) I know some people are going to stay here for the Travel Drafting Team meeting. With regard to counselors, do you want them to take their name tags? Or would you prefer controlling them. Okay. I will leave mine for you then. Thank you very much everyone. And Travel Drafting Team the room is yours.

END