

Kathy Kleiman: Okay, so where do we take the discussion from here, because I do think we have some very specific words, but I interpreted them more broadly than you did.

Bill Smith: Well, perhaps you did. I'm actually taking a broad interpretation of them. What I'm suggesting is that we have a terse scope, which is basically taking what is in the policy mandate, and putting that into our scope. At the same time, I think things like identifying what the policy is, that's probably within our scope, but I don't believe we need to call it out.

Relevant stakeholders, that's not mentioned in the mandate, beyond law enforcement, consumers – okay? I think that's in scope. What my concern with listing more explicitly than what is in the mandate is that we then can say, anyone can say, "I'm sorry, that's out of scope." Right? So if a stakeholder, if we went and listed stakeholders, as in scope, and saying we can do this, and talk about this, this, this, and this; if we didn't think of something, we'd then have to go back and add it to the scope, or it gets declared out of scope, potentially.

So I'm requesting that we consider a very simple scope of work that we know we must do, because it's in the AOC, at the same time understand that things like we have talked about here, that have been added, are in fact, within scope. And that basically it be -- perhaps two things; this is the scope as was defined for us, here are the things we intend on looking at within that scope; not an

exclusive list, or an all inclusive list, but as examples of what we will do.

James Bladel:

Yeah, I think I'm agreeing with you, Bill. If I'm understanding and following everything, for example, just looking at the first one; to assess the extent to which existing WHOIS policy is effective. Okay, well that's a big question, and there's a lot of ambiguity there. So just off the cuff, when I want to know if something is effective, I want to know what it is, what it's intention is, what problem it's setting out to solve, and establish some success metrics, and then measure it against something like that.

So I think that if you can, at least in my mind, when you were discussing that, I was picturing a tree with what's in the AOC broken out into kind of the top level elements, and out of each one these other items are coming out here. Between identifying and documenting existing WHOIS policy and measuring it and understanding how it's performed and what intention it's falling under, you know, efficacy; and then promoting consumer trust I think is – that's just out there. So that's probably your catch-all bucket for all the other stakeholders, besides law enforcement which seems to be given a place of privilege in the AOC. But if we were to then take a look at the other things here about identifying the stakeholders and indentifying the needs of the stakeholders, and that seems to feed into the consumer trust issue.

So if I'm understanding – are we saying the same thing different ways, where we're putting the AOC items as the tops of three

mountains, and then here are the boulders that make up those mountains.

Bill Smith:

I believe we're saying it the same way. All I'm suggesting is that we – rather than make the definitive list up front, and say that that's it, we recognize as an example, law enforcement is one stakeholder, and as you mention they appear to have a privileged position; I'm not sure they should have a privileged position. So perhaps in the future, we would want either to call out – right? Other stakeholders, or suggest a rewording of the language for the mandate.

And going forward to say “Here, here's what this Review Team is about” and I think that will come out after we do our work. We will have identified a number of things that weren't envisioned, I believe, in the original AOC.

James Bladel:

So to sum it up then, every other topic that comes up during the course of our deliberations must be mappable to these three, or they're out of scope?

Bill Smith:

I agree. We attempt to do that. I'm not suggesting – if there are things that don't map cleanly into one – I think the three, we can put anything into one of those buckets, or several of them. But if it were to come up, we find something that we all agree that really was missed and it really doesn't go cleanly into a bucket, we should do it too. What I don't want to see, and I've participated in too many typically standard organization groups, where the scopes

are so tightly defined, you can't actually do any work. You have no freedom, you just do A, B, C, D; and there's no intellectual freedom whatsoever. I don't think that's appropriate here.

Male:

I think I totally agree with the general mindset, my problem as a non native speaker is the term consumer is just not defined. Because you can interpret consumer as the commercial end user buying something on an e-shop, or you could sort of – consumer, you could take the consumer to include registrars. They are consuming your service and they are paying for the service, and they want an absolutely well managed environment to do that in, and you could definitely, I guess, extend that to the general operations of the internet.

If you're running like an end user IP service and you've got customers hanging off the wire at the end and they have to use some services, and whatever it is, they need to use that service, it's customer interest. So I agree that we should be very concise to start with, and not come up with a long list of things and trying to define them to the last bit. But as one of the initial work items, I'd suggest for distributing to understand within the scope of work to understand what this term consumer means, or not what it means, but how we, within the team, are going to interpret it. I think as soon as we document what our understanding of the term consumer is, it will provide the framework to work in, and to agree whether it's out of scope or in scope.

Bill Smith: Agreed, and I think that another term that may initially seem very clean, but on further inspection looks very fuzzy, is law enforcement. Especially meeting the needs of law enforcement, which are probably not monolithic and probably vary from jurisdiction to jurisdiction. But yes, identifying consumer – if there's someone, if there's a stakeholder who is explicitly named law enforcement, there might be a stakeholder that's implicitly omitted, and I'm thinking about registries. I'm struggling a little bit because I understand how everyone downstream of gTLD registries consumes WHOIS data, but registries seem to be more the maintainers, or the keepers of WHOIS data. So it almost seems like they're --

Kathy Kleiman: Those who are the (inaudible 0:31:01) registries, so they're being excluded for .com and .net.

Bill Smith: Well, they're completely untouched by WHOIS, in some respects. But it just does seem that if we explicitly named one, law enforcement, we've implicitly left one out with consumers. So it's not a catch-all for everyone else.

Kathy Kleiman: I think that makes sense.

Bill Smith: That registries are excluded? You're saying?

James Bladell: Yeah, it's implied. If we have law enforcement and consumers, then it almost seems like there's someone left out of the AOC. Someone left out of this picture.

Bill Smith: Do you want them included?

James Bladell: Yeah.

Bill Smith: Good, so do I.

James Bladell: My concern is that we can't then say that consumers is everybody but law enforcement, all the stakeholders but law enforcement, because we're missing one.

Bill Smith: I'm saying registry – if that's where we have to put registries, that they're a consumer, quote unquote, fine. We put them there.

James Bladell: Yeah, okay.

Bill Smith: Plainly stating registries are a stakeholder in this. Okay?

Wilifried Woeber: What I'm wondering is –

James Bladell: It stretches our definition, but I agree with it.

Wilifried Woeber: --is the registry not covered by the first bullet, like there is policy by ICANN, and it's defined? So it's ICANN on one end to raise the policy and there is the registries on the other end. I don't object against having the registries included one way or another, but I would think that sort of going off the bullet one is the policy effective, we would definitely look at ICANN's part of the game

and we will definitely look at the registries part of the game, so for me, this could map into bullet one. But again, interpretation.

Kathy Kleiman:

So can we zoom in on the language? I just took some notes, you can tell me if I got it wrong, that we're having discussion that consumer is not defined. It could be individuals; it could be registrars, general operations of the internet. But also what I was gathering from the conversation is that there are numerous terms that we would like to see defined; in addition to consumer, law enforcement. Maybe I'd adding that. Law enforcement is a very broad term. I'm going to throw in trust, consumer trust. What is consumer trust? I think we have to define that. What about legitimate needs? What is an illegitimate need? What is a legitimate need? I think at some point, we're going to have to wrestle with that term as well. And then of course, just the basic fact finding; what is the policy and its implementation?

James Bladell:

I'm sorry, can I kind of jump in on that one? You touched on something that I was thinking about, or maybe we were talking about it over beers or something, in one of these lovely Columbian restaurants. But the legitimate needs of law enforcement; I think – and maybe I'm being intellectually lazy here, but I think if we solve the problem of defining law enforcement, then you can presume that the needs of law enforcement are legitimate. I don't know if – am I the only one that's willing to make that shortcut, maybe? I just – I don't know, I just think it kind of builds into the definition of who's law enforcement.

Kathy Kleiman: There have been some situations where – we have procedure. I don't know, go ahead, Bill.

Bill Smith: I was going to add; similarly we should then have the legitimate needs for consumers, right? If we're going to question the legitimate needs, what legitimate needs of law enforcement are, then we would need to question legitimate needs of consumers, whoever they are.

Kathy Kleiman: But is it – am I misreading here? The wording seems to say the legitimate needs of law enforcement, and promotes consumer trust. So the phrase promotes consumer trust is what we're wrestling with on the consumer side. Or am I misreading the sentence that we've been given, kind of our operating legal principle?

Bill Smith: What would an illegitimate need of law enforcement be?

Kathy Kleiman: Fishing expedition. Certain types of fishing expeditions –

Bill Smith: I need more information than fishing. Phish?

Kathy Kleiman: Sorry, fishing. The vast majority of law enforcement needs are legitimate, but one thing that telephones companies got in a lot of trouble with, if we just use the United States as an example, was wiretapping after 9/11 without the appropriate legal process. And they were called on the carpet from Congress and the world, and lawsuits on this. So there is such a thing as if it's a legitimate need, following a legitimate process or something, there are requests

from law enforcement. I know we studied this in law school, that are legitimate, and then requests that may or may not have fallen into that particular category.

Bill Smith: Right, so all we're talking about are the legitimate needs. We're not saying that we need to meet the illegitimate needs of law enforcement, fishing expeditions, whatever. Right? That WHOIS should support what they legitimately require to have in order to do their job, right?

Kathy Kleiman: I agree.

Bill Smith: By the law.

Wilfried Woeber: By the law is actually opening another can of worms, which we already had on the email, and that's interpretation which law to apply. Is it U. S. law? Is it, sort of thinking about country code top level domains and their WHOIS service, is it the national, local, is it the – that was one of the backgrounds where I would have liked to have some briefing of the people who have been launched and agreeing on the AOC, but again –

Bill Smith: As a U. S. citizen, I would say it's not U. S. law.

Wilfried Woeber: --because U. S. law applies anywhere, doesn't it? (chuckle)

Bill Smith: That's a good question, it's very similar to when we fall into cracks between jurisdictions, I think that that also raises the issue

of legitimate versus illegitimate. Illegitimate is usually a turf war between two competing law enforcement agencies as opposed to one that's flat out asking for some illegitimate use of WHOIS. So I don't know, I have some hesitation about going down some of these roads, because I think it says that ICANN, and by extension, us, somehow have a role to play in solving these over arching questions that are facing the internet and society today, and I think we can certainly acknowledge them and maybe opine on them. I don't know that we have it within our remit, and that's a couple of paragraphs here, to fix those things.

Wilifried Woeber:

Well, actually I think we should not be expected to solve any problems. I see the mandate of this review team to give state of the art report, just an assessment of what have been the components, what have been the expectations, what is the current situation, and based on that deliberation we can then sort of issue a 'yes, no, we don't know' conformance to this mandate, but on top of that I would expect this review team to come back with a list of things where we just identify the open issues.

Because a review team, in my point of view, can never be – in the framework of ICANN, can never be a body to suggest solutions. Whatever we come up with, or whatever we identify as an issue has to trickle down to the bottom up process and has to go through the formal and well established policy development processes, but I would see us as expected to come back with like “you did that, it worked; you did that, it did not work, and by the way, we have

identified that there is a big hole that is close to the thing.” That would be my approach.

Bill Smith:

Yeah, and I’m sorry if I said “solve problems” - what I meant to say was issue recommendations; I think that’s kind of understood, if not explicitly stated in the AOC, and I believe it is, but I think that that’s just what they’re looking for. Just more of an identification, gap analysis, and then recommendations. Because honestly, that’s what most people read anyway. They just skip ahead to the recommendations.

Kathy Kleiman:

Let me come back if I might, to the issue of laws that we were talking about a few minutes ago. It seems to me, on our list of open terms that we at some point have to grapple with is another one, but it’s coming from a slightly different part of the affirmation of commitments, and I wanted to run it by you. In the very first line, it says “ICANN additionally commits to enforcing its existing policy relating to WHOIS, subject to applicable laws” and we said that we’re going to look at – I believe we said we’re going to look at the WHOIS policy, try to determine what it is, which may be easy or may not be, right? And it’s implementation, which may also be easy or not easy, and we may find variance of implementation. We have to look at that.

But this issue of – that we were just joking about, of what law, or what laws? It seems to me possibly something we need to grapple with as well, because it has an impact on everything we’re looking at. It has an impact on law enforcement, it has an impact on

consumer; what laws, and it has an impact on ICANN and what it's doing in its implementation, is what laws is ICANN subject to, or are the registries and registrars in this policy, under what laws does it exist, and what does it need to pay attention to. Bill, help me define this more please.

Bill Smith:

Okay, so to the extent ICANN has a contract; to me, I look at the affirmation of commitments not as a contract, it's just a statement, and it was a joint statement made between ICANN and the U. S. Department of Commerce. If you read in the affirmation, item two, "the internet is transforming technology that will continue and power people around the globe...", so international.

I'm taking applicable laws to be international, that ICANN is committing to enforcing its policy, subject to applicable laws as they appear around the world. So yes, there are jurisdictional issues, there are differences in law around the world. Wilfried mentioned top level domains, country code top level domains, which may have very different requirements on them.

I'm not – I don't see ICANN as an enforcer by this statement in the WHOIS policy mandate, but rather it's something to indicate that it has to pay attention to law around the globe. I believe it does, but I'd argue against the narrow interpretation, saying it's U.S. law, or EU law, or some other – it's much broader, and therefore more difficult. We all know that this is an issue, I think it hits all of us in one way or another, but it is how the internet operates and it has to continue to operate, where the jurisdictions – there will be

arguments between jurisdictions, there's no way to avoid that, I don't think.

James Bladell:

I think I mostly agree, but I think again, I'm either being hopefully optimistic and cutting right through something here. This occurs, this language occurs before the language that establishes the Review Team, so I think that we first have to then map it below – it's more of a description of ICANN's commitment than necessarily part of our remit. But it is important that we need to map it into that tree that we talked about. I think that it becomes a question of competing jurisdictions, or applicable law or whatever, so that probably falls under the needs of legitimate law enforcement, however it does say the word enforce.

ICANN doesn't enforce laws, ICANN enforces contracts. I see Stacy back there in the back of the room, hello Stacy. Stacy enforces contracts, so the enforcement part, to me, reads as effective, as it falls under there. What we're saying here is, is ICANN enforcement activities or is compliance – contractual compliance activities in accordance with whatever we've identified to be the applicable law. Or maybe the question, better stated would be, is there a gap between what ICANN can do in terms of contract compliance enforcement activities and efforts, versus applicable laws. So that was just how I off the cuff read that phrase.

Kathy Kleiman:

So you want to see if there's a gap between ICANN's – sorry to interrupt, but I just want to –

James Bladell: This sentence is almost highlighting if there is a gap between any of the jurisdictional differences, registrars in the U.S., registrars in the EU, registrars in small Pacific island nation; and how that impacts ICANN's contractual compliance efforts and the effectiveness of their efforts. Does a different country say that ICANN cannot enforce their contract as it's written? If it's with a registry or a registrar? Because that's all ICANN can enforce.

Bill Smith: Correct, so I would say that's another way to interpret that sentence, and I'm just parsing it; that ICANN commits to enforce policy, subject to applicable laws, and those laws would be, as you point out, may vary jurisdictionally. I think that that's a very reasonable way to interpret it; it's typical legal boilerplate, right? We agree to enforce what we say we will, provided it's legal. We're not going to do illegal things. So that's one way to interpret it, and I believe the discussion we had earlier is also a way for us to consider it; which is, yeah the laws are going to be different depending on jurisdiction, and we need to be cognizant of that. But you know, the question we would want to answer or look at is, is ICANN enforcing its existing policy, whatever it might be?

Kathy Kleiman: Then how does – I'm still missing it. Then how does the subject applicable laws piece come in? Because that question has to do with the first point, is it enforcing its existing policy? But then there does seem to be this jurisdictional question that comes up, subject to applicable law. So doesn't that modify or it question it or open it up?

Wilfried Woeber: I don't have any background in law, and I don't have any sort of business law background or contractual stuff, I'm still coming from a technical background; at least I think so. But following your lines of argument, the only way for ICANN to enforce policy is to enforce contractual provisions. Wouldn't that sort of, in the end, make it "very easy" for us and for ICANN because it's just international business contract law? I don't know whether this term exists, probably it doesn't.

If we think that the only way for ICANN is to sort of have an influence on implementation of the policy by wielding the contract stick, then it's not so much different from selling iPods or if you have a contract that you are not supposed to use iPods in Germany because there is a whatever, then this is not any different from WHOIS domains. I don't think this is actually sort of the original mindset on the whole thing, but if you continue that line of reasoning, like it's just contractual compliance stuff, then it might be easy, but useful.

Bill Smith: Yeah, I agree with you, Wilfried. I think when I read this the first time, I've read this both ways that we're talking about, and I actually think it, for our work, has meaning both ways. One way is it's just contract compliance, there's where the policy is, as best I can tell, really defined, is in the contracts. So this is ICANN enforcing its policy through contracts and contract law, subject to whatever laws apply for whatever contract ICANN is enforcing.

So I don't know that we know what law applies, in all cases. Many of them will be, no doubt, in the U. S. But there may be contracts that were signed that are governed by other law. I haven't read the contracts recently to know whether they state what the jurisdiction for any disputes is. Which to my knowledge, that would be the applicable law, in Wilifried's definition. The very narrow, specific is we – two parties – agree, and we agree to be governed by this law, and if there's any issues, it will be done in these courts. That's the law that would apply. It's also important, I think, for us to read this and say "Oh, subject to applicable laws? ICANN works internationally, there's lots of different laws out there that we need to be cognizant of as we do this review, and perhaps make suggestions for how to improve things." But we can't just have a U.S. centric view, even if the contracts are U.S. based; we have to take into account other jurisdictions.

James Bladell:

And that's understood, and I think that part of promoting consumer trust means that – could possibly indicate that different stakeholders would expect some sort of uniform experience, despite their legal patchwork, which would possibly mean that ICANN shouldn't have custom contracts with each jurisdiction.

They are still, I think for competitive reasons, for consumer trust reasons and for security reasons still looking to have a one size fits all registrar accreditation agreement, or general registry agreement, or whatever it is, so I think that's something. But we should probably – we've got three of the four folks that are talking here are saying we probably need some folks from – we probably need

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to mark this area as one that needs some further legal analysis, either from ICANN or the other folks that are in the other Working Group.

Kathy Kleiman:

That's a good point. I note that we have about five more minutes. Sorry I've been typing. We do have the other group up, thanks to you they have been working, I did just send them a note five minutes ago that said we have about ten more minutes, do they want more time, and I haven't heard back from them. So I think we have to assume that we're wrapping up in about five minutes. So let's figure out maybe what we want to wrap up.

Wilfried Woeber:

Maybe just make one last statement because I'm not based in the U. S. My expectation would be that it's not supportive globally for consumer trust if we would sort of suggest or accept that all the laws and all the contracts were exclusively signed on the U. S. law. I'm pretty sure that this would not be in the interest of ICANN or be in the interest of the community at large. This was following also like having one size fits all contact, if this would mean that all of them have to be enforced on a U.S. based court, that's definitely not going to fly.

Kathy Kleiman:

So –

Bill Smith:

I think that the contracts need to be uniform. If you're competing with another registrar, for example, and he has no obligations under WHOIS, and I have to spend millions of dollars to build a WHOIS system and the consumer can choose between either one,

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then my prices are going to be more expensive, let's say. So it's a different experience.

Kathy Kleiman:

So, would this be the right way to summarize the questions that we've raised? Not the answers, but the questions that we're delving into under our scope of work. I think Bill said that there's a narrow way to interpret applicable laws and what we're looking at, there is a broader way; the narrow way might be what's in the contract, with the laws that are cited in the contract.

The broader way might be a non U.S. centric kind of this is a global experience, should it be uniform, is it going to divide up? These are all things we need to take into account, before we move forward. I'll also throw in that when we're dealing with communication systems, public policy often laws may be involved because of public policy matters, which may be outside the contract.

In the community I grew up in, the contract for my house said no Jews, Blacks, or dogs. But as a matter of public policy, that was invalidated, my family is Jewish, and we moved into the house. How all this fits in I don't know, but sometimes – it's not always a contract that governs.

Bill Smith:

One more thing on this one is that – and it's a piece that I don't see mentioned anywhere as I look up the RAA, the WHOIS policy stuff, but I think it falls under consumer trust, for my one definition of consumer, and that is interested third parties. There are

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contracts between ICANN and various parties, as an example (Kpel) and eBay do not have contracts with ICANN, but we are a very interested third party to the agreements that ICANN executes, and to their enforcement of those contracts.

So this language actually is important to us, as an interested third party. We know what the contracts are, we see them, we read them, we expect them to be – as a consumer of the services offered by ICANN, registrars, registries, etc., we expect – we have an expectation that they will, in fact, honor these agreements and operate by them. If they don't, our trust and our belief is that end user trust is actually significantly eroded, and I believe that's – while it's not mentioned there, it's an issue because I suspect that we could bring an interested party suit against someone, or both parties for non-compliance.

James Bladell:

I just assume that would fall under consumer trust. There are business consumers and individual consumers –

Wilfried Woeber:

That's one of the backgrounds why I suggested one of the initial work items should be defining all the meanings within the framework of this review team, what the term consumer means, and if we come up with a short list, like this is what we interpret as its meaning, then I think we are setting the stage.

Kathy Kleiman:

At some point, I think we have to come up with a working definition before we can go forward. Not here, obviously, because we've got five minutes; but by London, I think maybe – and let me

ask whether you think this is a good plan. By London, here I think – our job now, to the other group, it sounds like the summary of what we’ve done today is what are the questions. What have we zeroed down in to the questions and the terms that we think need to be defined? Should we suggest, in London, that we come up with one, or if we can’t agree, more than one working definition that we put out to the community to review with us?

Bill Smith:

Sure, yeah. I think something like that. I hope that we might be able to agree on the specific language, on a scope, and then to have – if it’s in part of our terms of reference or whatever, have a section of the document that is modifiable. But we agreed on scope, and say “That’s our scope, we’re not going to change that.” Everything we do is going to fit within there somehow, and if we have to we’ll shoehorn it in, but we’re going to allow another section of the document to be either an addendum which can be easily changed, or as an example, in Board level things, you have bylaws, and then you have policies.

Policies are much easier to change, typically, than bylaws, and rather than – I’m in favor of us at London, or before London, coming up with as definitive a list of things that we think, or answering questions. I would hate for it to be fixed, though. Because I believe we will end up with things as we go on, and say “well, this is something we really need to look at, and we didn’t know it before because we didn’t know what we don’t know.”

Kathy Kleiman:

And that's part of the outreach process, is to find out have we gotten it all? And I think we've drawn the box nicely around the definition. We have been rejoined by our friends, so I think I know where we're going on this, I've been taking notes, but if I mis-characterized let me know. I'm going to go out and get a whiteboard that I moved – Oh, a pad of paper. Everybody on the phone, we got a great pad of paper that we can work with, just at the right time. Thank you. And I think we should probably go back to our microphone, so that the people can hear.

Would you like to kick off with a discussion of what you were talking about in terms of scope of work? We have notes on this side as well, and what I thought I might do is take notes on a big pad of paper as we talk, and sum up about our work as well.

Sharon Lemons:

Okay, Kathy, thank you for that. Sharon Lemons here. Our discussions were fairly fundamental, because there were only three of us (inaudible 0:59:35) and two of us were fairly new to this environment, and we felt that we applied for a role and the description of the role for which we were applying was quite clear, and on those basis we were commissioned for this bit of work, and to date we felt the work has been foundering somewhat, but we don't know why that is. Whether it's lack of trust or a lack of common understanding, but we wanted to put that out there straight away, because we didn't know why that was. So the basic principles of our scheduled work was found, and we thought that was a good way to take forward. By the way, I've asked my

colleagues, once I start talking to chip in, if I've missed anything. So I'll just start, and they can chip in.

We talked about – what we did talk about was the definitions of consumer and law enforcement, and I wasn't quite sure what consumer was, and we agreed that consumer is simply somebody who wants to know who they're dealing with, and we went into a little bit of detail around this, which was very helpful about the need to differentiate between the private and business use, and whether someone is trading or not trading, and their expectations around that would be different.

James Bladell: Just a –

Sharon Lemons: And there are some good examples around --

James Bladell: Just a – can she hear me?

Sharon Lemons: And we appreciate the need to balance between (crosstalk). We do think that could be explored –

James Bladell: Excuse me, Susan? Excuse me –

Sharon Lemons: -- in greater detail when we meet face to face, and that was the whole point of our group, to explore that. The other one was law enforcement, of course of particular interest –

James Bladell: Excuse me! Excuse me just a second, please.

Sharon Lemons: -- and I wondered was it people with police powers or was it much wider than that? And we agreed that there are certain – I talked about IP, for example, (inaudible 1:01:55) this agenda, and we said we’re completely going to flesh this out when we get together, but really whoever (inaudible 1:02:03) law enforcement meant, it would have to go through the courts of law enforcement, so quite a good conversation. But the overriding thing is really; let’s get on with it – unless my colleagues want to add anything, that’s probably all I want to say.

James Bladell: Okay, thank you, and we were just noting that that went through very, very quickly, and I think we may have captured it all. This is James speaking, by the way. So let me run through here what Kathy has captured, and the white board just fell. That’s pretty cool.

Susan Kawaguchi: Do you have a microphone, James?

James Bladell: I do have a microphone, is that better?

Susan Kawaguchi: If there’s a way to get you a little bit louder, it would be better.

James Bladell: I’m rattling the windows in this room right now.

Susan Kawaguchi: (laughter)

James Bladell: I'm like the voice of Moses or something, from the mountaintop. It's rattling the furniture, and the technical folks are shaking their head that they cannot make it any louder.

Susan Kawaguchi: Okay.

James Bladell: I will do the best I can to project and just speak as clearly as possible, and as slowly as possible. Will that help?

Susan Kawaguchi: Yes.

James Bladell: Okay, so what Kathy has captured, and I will read through the white board, the elements she has listed. It's very likely we may have missed something in the middle when we were trying to keep up.

That there were communication concerns discussed amongst the remote group, and this is something that we need to have identified, that we need to work out either in advance of or at London, but they certainly need to be put to bed to everyone's satisfaction, quickly. The next topic was the definitions of consumer and law enforcement, so there were two definitions there, and consumer was further divided into private and business consumers. Correct so far?

Susan Kawaguchi: Correct.

James Bladell: The next step was law enforcement, and help me here Kathy. It looks like law enforcement was broken into three components, police powers, intellectual properties of I-concerns or interest, and then the court system. Is there anything missing from there?

Lynn Goodendorf: This is Lynn, James. If I could just add one more thing to what Sharon said, is we talked about whether or not the question here about the scope of work is our question whether or not we would amend it in some way, or change it, and our feeling was that we're all satisfied with this draft. We weren't sure, is this entire draft from ICANN, or is part of it a proposed draft from Bill?

James Bladell: We had a fairly healthy discussion on that as well, and I think that that's an excellent segue, Lynn, into possibly where we would share the notes from our discussion, and see how well they map or align.

Lynn Goodendorf: The only suggestion that we would have along those lines is that if there is a fear that we might want to explore or discuss some aspect, and there was a conflict, a hypothetical conflict of whether or not that discussion was relevant to our scope, we feel that could be addressed by adding like a sentence at the end that just says that the scope of work is not limited. We think it's written pretty broadly, and we could just add a sentence at the end that says any relevant discussion initiated by a member of the project Review Team would be considered.

James Bladell: Okay, thank you, and there are a lot of heads nodding over here in Columbia, and those are very much along the lines of the conversation we had, if not using a lot of the same words. Any – I lost it too, Kathy, the exact words – but any relevant topics or dependencies I think was a word that we used. I’m not sure if I heard Sharon or Lynn say that, but any relevant topic or dependencies that arose during the course of our discussions.

Lynn Goodendorf: Right, because I mean I think it is not only my intention but the intention of everyone who signed up for this is that you know we want to thoroughly explore the WHOIS policy, and we would not want to shut down any relevant dialogue. At this point in time, since we’re just beginning, it’s hard to foresee or anticipate every path that we might explore. So if there’s some worries about that, I would just say add a sentence at the end that just says that our work is not limited to these statements.

James Bladell: I think that’s correct, and Bill, is that in alignment with what you were saying? Yeah? So I think we’re all in near unanimous agreement here, and we had many of the same discussions on this end about not artificially or arbitrarily limiting the discussions with too narrow of a scope. I’m going to hand it back now to Kathy, and here you go.

Kathy Kleiman: I would like to have the pen. Somebody needs to have it. I’m passing the pen, we now have your comments up on a big piece of paper on the wall, and we’ll try putting ours up. It’s very interesting that you – this is Kathy, of course – it’s very interesting

that you end with the scope of work, and keeping things open, because that was our starting point. That came up very early in our discussion, that we definitely want to – the sense of the group was that we want to try and define what we’re doing, but also keep in mind that we may not identify everything up front, and not create our borders of scope; not define them so rigidly that we can’t add additional things as they come up, from the group and also from the outreach projects that we’re going to have.

We also had the same starting point of going through the definitions, with the terms, and pointing out what was not defined. We also started with consumer, as not defined, and we explored is that buyers, registrars? Wilifried mentioned that there are issues of general operations of the internet that involve consumer and consumer data.

Other terms that we found to be very broad and undefined, not just consumer, but consumer trust. What is consumer trust? Law enforcement, legitimate needs; we were wondering what the applicable laws are, what the jurisdictions are that need to be taken into account? We were going through and trying to identify open issues, and thinking that we need to define these, maybe in London. (inaudible 1:10:05), some working definitions of these open terms. We spent some time in the applicable laws, and trying to discuss are we talking about jurisdictional issues, international issues, do we need to pay attention to law around the world? There was a sense we really do. This is global and the affirmation of

commitments, Bill pointed out in another section it says explicitly this is global. The scope of what we're dealing with is global.

We recognize this makes things broader and more difficult, but we think that falls within our scope. It was suggested that we examine the gap, see if I get this right, James. The gap between ICANN's contractual efforts on compliance, and their effectiveness, and jurisdictional differences in applicable laws that may exist around the world. An issue came up about how to interpret; I think it's still applicable laws. We were wondering if it is a narrow definition – you can see that we went for a broader definition, but there was a question where the narrow definition is. Do we just look at the contract between the registrars and the registrants, between ICANN and the registrars, between ICANN and the registries, to see if those define the jurisdiction?

For example, if it's the United States, do we want to stay with that narrow definition, or are the reasons not to have U.S. centric view on this, to go broader. At some point, and I'm going to let James explain this a little more; the question of the uniform experience versus different experiences. I'm going to let him explain this, it was an interesting issue.

James Bladell:

Sorry, that probably was different. We were trying to determine whether the uniform experience of all stakeholders was a component of consumer trust, as well as, for example, having the uniform contract; the one size fits all contract for accreditation for ICANN was important for registries and registrars who might –

sorry, I just took my Blackberry out of my pocket and the feedback went away.

If registrar A is in jurisdiction A, and feels that they have a lighter obligation under their WHOIS contract with ICANN, and registrar B in jurisdiction B has much more onerous and expensive obligations, those two registrars, although they may exist in different jurisdictions are probably competing for the same pool of consumers. Therefore, they are going to be providing dissimilar consumer experiences based on their jurisdictional differences.

So we wanted to get an understanding of whether or not it was still desirable to have kind of a uniform competitive playing field, I guess is a better way of saying it. And Kathy walked all the way to the other side of the room. Here you are.

Kathy Kleiman:

Thank you, thanks James. That actually, let me ask the local team. Is there anything else that anyone would like to add, at least on our discussion? James wants to add something.

James Bladell:

We did kind of start to visualize a tree structure, that started with the AOC as the source from which all of these definitions were to spring, and then we would break them down into the three top heavies. I think we agreed that this was probably a good way to start, and then the conversations and discussions and definitions would become more broadly based and less limiting, the further each level down, so I think that how we initially kind of started this off, and I don't know if you want to expand on that a little bit, Bill.

Bill Smith:

I had suggested that we go back to the earlier version of the scope, which basically was the recapitulation of the mandate from the AOC. And then in terms of a document, I would look at that and say okay, we have potentially a scope statement, and that's the scope. Underneath it perhaps, or as an addendum, a set of things like who are the stakeholders, what is the policy, what are definitions for consumers, legitimate needs, law enforcement, etc.

As James pointed out, where do these things fit in, in terms of the AOC? So here's how it hooks in and why we need to do this. That either document or piece of the document is the thing that morphs and changes over time as we learn the things that we don't know. When we're going out and conducting reviews, getting input from others, or discussion among ourselves, we hit on something and say "well, we didn't think about this."

We agree it needs to be in there and we'll discuss it, or perhaps we agree it needs to be in there, and there's no way we're going to be able to do anything with this, so we'll push it off to the side, but we want to note it. But that's a way for us to have a well defined scope that we agree we aren't going to change, but we agree we are going to be flexible in what we do. We're not going to attempt, a priori, to say "this is exactly what we are going to do" and then, because we spend so much time agreeing on that, we don't have anything to do, because we've done everything at that point.

Lynn Goodendorf:

This is Lynn Goodendorf, after listening to all of that, my reaction is that you guys have been working on going into more detail on the tasks to carry out our work, and nothing you described there sounded to me like it would be out of scope. It just sounded to me like these are tasks that you are starting to organize, and lay out a plan of work for us. To me, that's not really the same thing as scope, it's more like building the plan of work.

James Bladell:

Well, I think Lynn, I don't know that—there's a couple of us shaking our heads here. I don't think that we felt that way. We were essentially establishing boundaries, by starting with the AOC and identifying what the AOC was asking us to do, and what we had remit to do, under the AOC. I think when we first hit those three primary bullet points, so effective policy, legitimate needs of law enforcement, and consumer trust; that's where we kind of identified that those are very vague in that we have some definitional work to do. But I think that we've established at least the primary outline of what our work boundaries should be with those three. Bill wants to – Bill?

Bill Smith:

The other thing I would say is we – and it sounded like you folks did as well – we agreed that we don't want our scope to be so explicit that we can't later modify or add something that we didn't think about. We're looking and saying “we need a scope that we agree to operate in.” and then we also understand that there are things, we already have identified things in our discussions, that we agree are in scope, and here's how it would hook in to what's in the AOC.

That's kind of what we were doing. It wasn't so much tasks, trying to define the task necessarily, Lynn, it was perhaps looking at some exemplars and saying "Okay, here's one, how would we address that?" Maybe another, and just noting and then saying "Okay, we need to do more work on that. We're not doing that today, we just know we need to do it, and it's an example of what we need to do."

Lynn Goodendorf: Okay, well my individual feedback is that I didn't have any objection to anything you guys identified; they all sounded to me like they're consistent with the mission that we've been given as the project Review Team. Sharon and Susan, I don't know if you might have different reactions?

Sharon Lemons: No, no, entirely consistent with your views there.

Lynn Goodendorf: We've been doing a lot of talking on these lines. Please keep talking on the remote lines, thank you.

Susan Kawaguchi: Well, how do we move forward from here? It sounds like we're all in agreement, so how do we move off the dime, here? What's our next step?

James Bladell: I think a recommendation – this is James – one recommendation would be to, now that we have this stuff captured, as we start to put together a more formal scoping document that merges all of these elements that we have discussed today into a starting point on the

Wiki, and that we then use that as the starting point, or formation, of our agenda for London.

Whether we attack that work plan that's starting to sort of take shape over the horizon, whether we attack that as a group or whether we find some logical sub-groups that we can divide into to attack that I think is probably an open question for London, and I think that that's probably what our next move would be. Bill, is that what you were thinking? Bill's nodding, what do you think on that end, Lynn?

Lynn Goodendorf:

I would say I'm just anxious for us to start getting some traction on our work.

Kathy Kleiman:

Kathy again, as I look at the notes that we took from both presentations, from both groups, I see a lot of similarities and overlaps. Certainly needed to define some of the key elements of the affirmation of commitments, most of the key elements, is central to both of our visions. What we talked about here, at the very end of our work in the small group, was that definitions and coming up with definitions may be critical for London.

Some advance work on it, but also focusing down by London, or in London, to one or multiple working definitions. If we can't agree, then there may be multiple possible definitions of say, consumer trust. One of our missions may be to present the right questions to the community, so that we may want to create definitions in London, and then as part of our outreach effort, put it out to the

community and say “Do you agree? And if you don’t, what else do you consider within our scope, what else do you consider within these definitions, what else do we need to be looking at?”

And of course, be flexible enough to include that. Wilifried has asked to talk, is there anyone else online that we should put into the queue on telephone?

Wilifried Woeber:

Just a little comment for the vision for London. I think we should try to have some working stuff in place before we meet in London, to review that during our face to face meeting, and if possible at all, if we get as far as that, my suggestion would be to try and put together a rough framework in London about the questions we would like to ask to the general community, and to provide a framework for the feedback. Instead of just asking the question do you like it or not, is maybe not generating the answers we would like to receive, to actually help us with the further things. So maybe we would be able to sort of structure the things, and put out some framework for feedback, I’ll put it that way.

Bill Smith:

Yeah, this is Bill. I just want to point out we don’t have actually the majority of the members of the group here. So I’d urge a wee bit of caution in how we might report back to them. We certainly can say “we achieved rough consensus”, but we now need to have the discussion in the larger group to make sure – we want to make sure they feel included in this.

Lynn Goodendorf: This is Lynn, I think that's a very good point, Bill, because we do have so many members of the Review Team not able to attend, and we did agree that this would be an informal meeting. So if nothing else, as a courtesy, I think we need to communicate that, but surely that could be done in an expedient way.

James Bladell: We label it as brainstorming, and we note that it's still left open for changes.

Wilifried Woeber: I think everyone who participates in this exercise today is fully aware that this is not the formal meeting, this is an informal get together, and we just try to set the ground work to formally build on that one. My expectation would be that we will have another formal tele-conference meeting before getting to London, as a one to one example of (inaudible 1:25:08).

Bill Smith: This is Bill, what we might be able to do, given that we have roughly half of the team here that was engaged in the conversation, is come up with a proposal for the rest of the team, to say "here's what at least a large number of us talked about, here's a rough draft of things, here's where we stand, what do you think about this as a way going forward, and here's how we would get from where we are today or tomorrow or later in the week, to London. In no way do we want to exclude you from any of this, but we're trying to advance the work in a timely fashion, we hope that it's okay."

Kathy Kleiman: So to do that, we would share – we would type in these notes, and share the results of our brainstorming? Perhaps ask for input, and

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additional ideas and thoughts, concerns, questions from people who unfortunately couldn't be present. I'm just taking notes as I talk. We'll address those, and then I guess come up with a sub-committee, hopefully including people who are local, people who are remote, and people who aren't present, to take us to the next step, which is defining this further as we go into London. Is that right? Thoughts from the telephone link? Lynn, Susan, Sharon?

Sharon Lemons:

This is Sharon Lemon here, I don't think we've (inaudible 1:26:53) the world, I don't think we've done too much here that's going to trouble anyone else. And again, I'm going to be frank with you all, which I hope our relationship will always be, this has been a long conversation where I don't think we've achieved a great deal. I just hope that at our face to face meeting we move this up a pitch. I want to play the biggest part I can, and I haven't got as much experience as the rest of you, but here we are, two hours later, and I don't think that anyone who missed this conversation would have missed a great deal. I'm sorry to be as candid as that, but that's how I feel.

Kathy Kleiman:

I appreciate you sharing what you're thinking. Thank you.

Lynn Goodendorf:

This is Lynn; I share Sharon's reaction, that I do feel a little bit frustrated. I just feel like as a team we keep going around in circles. I want to make sure that we accomplish as much as we can before the meeting in London.

James Bladell:

This is James, and I just wanted to point out I'm actually encouraged. I've been through a number of ICANN pdps, and one previous Review Team, sorry, policy development groups, and I think we're actually par for the course if not actually kind of moving along at a pretty healthy clip, in the context of this world. So I hope that doesn't frighten everyone, but this is actually not unusual. It's unusual, in fact, that we haven't really hit anything that's bogged us down.

So I would rather be more encouraging, and say we're building a springboard here, and things can progress even more rapidly as we go forward, because we're laying the ground rules in advance. As Bill has said, we get into a lot of these Working Groups at ICANN, and we find out that if we don't wrestle with some of these definitional or scope issues at the outset, we find ourselves in quicksand somewhere three, four, five months down the road, and unable to get ourselves out. So I think it's time spent, but it's time invested.

Sharon Lemons:

Thanks James, it's good to hear that.

Kathy Kleiman:

This is Kathy, hopefully when I share the sheets – there's a sense here that we've moved forward today, with ourselves, and in conjunction with you. I was so pleased to hear, when you presented, that you were focusing on the same questions we were. We may have gone into a little more depth, we may have gone off topic a little bit, we may have had different questions, but the same issues. That's bodes very well for the fact that we're within kind of

defining the scope of what we need to be doing in this general agreement. Hopefully we have a number of people watching and listening, and hopefully they will also let us know what they're thinking, or whether they're asleep at this point.

Certainly, I imagine people in this room will be the core of our outreach responses as well. Let me ask, does anyone want to take up a five minute break? I think we've kind of finished this section. We have Liz Gasster with us, we're going to open the Adobe, we're going to go ahead and put up some materials, and I think – there's nodding here. Are you guys okay, online, to take a five minute break, and come back and reconvene. James wants to say something before we do, and then we'll come back and Liz Gasster, Senior Policy Counselor to ICANN will begin to help us look at the iceberg, the tip of the iceberg of the fact material available to us.

James Bladell:

I just wanted to say that I do have a conflict, so I will probably not return after the break. I know that we go until 4:00 here, and I do have to finish the other AOC Review Team as it winds down its work, as we're getting started. They are going to be having a meeting here in the other room. This is the accountability and transparency Review Team that's meeting with the Board, but I would just want to reiterate, please don't get discouraged. As Liz, I'm sure, will tell you, this is a couple of, I think, encouraging hours out of a controversy that has been brewing since I was in junior high school, by my count.

So this is good, this is time invested, and if you want to clear a room faster than anything at ICANN, you can say that there's free coffee outside, or you can say the word 'WHOIS'. I think both would have the same effect of emptying a room, so please do not get discouraged. (laughter)

Kathy Kleiman: Thank you James, and thank you for cloning yourself and being in two places at the same time with two review teams. Five minute break it is, thank you all, and we will not reconvene until everyone on line has rejoined us.

Kathy Kleiman: Is everybody on the conference on the Adobe? We're uploading a new document. Great, thank you. Liz, here you're going to be live.

Female: Hello?

Kathy Kleiman: Hi, this is Kathy, and you can see we're still trying to upload the Adobe. There it is. Let me introduce Liz Gasster, Senior Policy Counsel for ICANN, WHOIS wizard extraordinaire, I don't think anybody in the ICANN process knows more about WHOIS compliance, WHOIS policy activities, I don't think anyone has drafted more of that than Liz. Liz is also leading, you're policy counsel to the GNSO Council, so Liz has been working for the last year on WHOIS studies. Three years, WHOIS studies terms of reference, to really go out and gather some data on both the WHOIS system, on its uses, on its misuses, proxy privacy.

I think we'll be talking to Liz a lot in the next nine months, but right now, can everybody see on the teleconference? The WHOIS background information? Can you see the document? Okay, we're still trying to get it up. If you can go to our Wiki, you can go under WHOIS background information and all we're doing is we're going to walk through the seven points of information that's been uploaded. In my sense, and Liz can confirm or deny, that what's been posted on our Wiki as background information is the tip of the iceberg that might be available to us.

So we're going to begin to walk through some compliance documents, some activity documents, of a process that's been going on for 25 years, broadly; and for eight years, at least eight years within the ICANN process, the WHOIS questions. Can anyone – have the people on the bridge gotten the background information yet? Is it possible to go to the Wiki for the WHOIS background information? To link to that section? It is on the Wiki – can someone put out the link to the WHOIS background information page on this side? Great, thank you. On the bridge, let us know when you're ready. Sorry about the difficulty getting this onto Adobe. Alice is working hard.

Susan Kawaguchi:

This is Susan. I'm in the Wiki. Does anybody else need that?

Liz Gasster:

So it's Liz Gasster here. Susan or Sharon, can you just confirm that you've also got the document in front of you? Whether it's via the Adobe Connect or via the Wiki?

Sharon Lemon: I'm sorry, I'm in the review team work.

Susan Kawaguchi: This is Susan, I'm on the Wiki, so I can get into it.

Liz Gasster: Great, we just want to make sure that you can see the same information that we are looking at here, and it is available in a couple of different places on the Review Team Wiki and shortly on the Adobe connect.

Kathy Kleiman: Lynn, Sharon, are you up?

Lynn Goodendorf: Yes, I have it.

Sharon Lemon: Yes.

Kathy Kleiman: Great, thank you. Back to Liz.

Liz Gasster: I'm going to probably try to breeze through this rather quickly, but if you'd like me to focus in on any particular details, I'm happy to do so. Before I begin, in the room here with me, and I apologize for the phone folks that are remote, but I just want to note that Pam Little, who is the acting head of compliance, is in the room with me also, and Stacy Burnett who's a Senior Director in the compliance organization, and then also Steve Shang who is a Senior Technical Analyst in the policy group, who's done some work on the technical side on WHOIS. So we actually have quite a few staff people here in the room with us.

Kathy Kleiman: Liz, at the end of this, could you email the names, and the email addresses? If that would be okay, names, titles, and email addresses of – because I’m sorry I didn’t know you and I couldn’t introduce you, so hi. I think we’d love to have you as resources for the future.

Liz Gasster: Yeah, and I think probably you’ll want to work through Alice and Olaf in terms of contacting them, but I’m absolutely happy to provide the contact information and make sure you’re familiar with the names and who they are and their backgrounds. So yes, thanks for that Kathy, and Steve, please remind me of that if I forget.

Okay, so we have provided an extensive background that we’ve divided into categories here. First is this background section, and perhaps if we can just kind of scroll as we go here, is this just one page or does it scroll down? The background is really just generic information about WHOIS. The technical protocol, what it is, what’s been going on over the last ten years, at a very high level. The fact that there have been ten years of task forces and Working Groups, surveys, and other policy activity.

There is a general policy page on WHOIS that is noted, that is a kind of comprehensive compendium of all the policy work that’s been done on WHOIS. But it is not as annotated as what we’ve provided here. It is a good resource, but it’s a little hard to tell from that link. This is the [GNSO.ICANN.org/issues/WHOIS](https://www.gnso.icann.org/issues/WHOIS). When you do to that page, it really is just a very, very long series

of links. So I think you're going to find our backgrounder a little more useful because it's more annotated than that.

We wanted to provide a little bit of an idea of what we mean by WHOIS registry data, and thick and thin WHOIS, just to make sure everyone knows what thick WHOIS is, versus thin WHOIS. We wanted to provide just basic information about registrar obligations, and the registrar accreditation agreement, which are listed here. Again, happy to answer any questions you have.

Obligations of registrants, under the RAA, which we've also provided here, and just my caveat that I'll mention a couple of times; this is an abbreviated version. It's not exactly what the RAA says or any of the primary documents. I tried to abbreviate them to make it more convenient, but of course, please go to the original source for exact information and exact correct wording. I may have abbreviated too much in some cases.

There is a whole section here, number two, on selected WHOIS accuracy work by compliance. These are kind of the key compliance elements, and also some information on some studies that have been done on WHOIS by the compliance department. Pam Little, again, and Stacy Burnett are going to be kind of our internal resident experts on this compliance work, so I'm not planning to go into much detail there, unless anyone has questions.

We do have a list of WHOIS policy activity that is historical. What I tried to do here is just put in chronological order a lot of the

work that's been done on WHOIS. This is where it definitely is an abbreviated – even though it's long, it's three pages in text, it is an abbreviated summary of all of the policy work that has gone on in WHOIS. What I've tried to do also is highlight, I think on the next page, Olaf? Some of the key actual changes, policy changes, that were made. For example, the Board approving these policy recommendations, requiring annual data reminder policy, a restored names accuracy policy, a prohibition against bulk access to WHOIS information for marketing purposes, and additional prohibition against resale or redistribution of bulk WHOIS data by data users.

These are policy activities that have actually been completed on WHOIS; so although James referenced many years of work with not a lot of outcome or changes, there actually have been some over the years, to address these concerns here. In addition, just moving on now to the next page, in the 2006/2007 timeframe, the GNSO spent a lot of time considering what we call an operational point of contact, or OPOC proposal.

This OPOC proposal was considered for quite a long time, but ultimately in October of 2007, it was essentially rejected by the Council, in lieu of conducting more studies of WHOIS. There were concerns that OPOC would be very difficult to implement, very costly, and that there were unanswered questions about how it would be implemented, that were perceived by the community as very significant barriers to adoption. So instead, the Council decided that we really needed to have more fact based information

about WHOIS, which was the start of the WHOIS studies work that I've been doing for the last three years or so.

Under this, we'll get to the study shortly, but I also wanted to draw your attention to some SSAC, the Security and Stability Advisory Committee of ICANN, which has produced several informative reports on WHOIS over the years, which I definitely encourage you to take at least a look at. Also, the GAC, the Government Advisory Committee has been very outspoken about concerns about WHOIS, on many occasions in previous communiqués, so I've summarized some of those communiqués for you, to give you a sense of the GAC concerns.

And then moving to number four, an overview of current WHOIS policy; what I've tried to do here is kind of categorize what I see as the key policy activities that involve WHOIS that are going on right now. So we do have this set of studies, which I could probably spend a whole hour just talking about, so I don't want to go into a lot of detail about that right now. But it's a very important current activity that's going on.

I want to draw your attention also to amendments to the RAA that are being considered by the GNSO right now. There is a Working Group, a joint Working Group of the At-Large advisory committee and the GNSO, which worked for the last year or so to identify high priority amendments to the registry accreditation agreement in general, but the fact is that there are quite a few proposed changes that involve WHOIS. So while the title of the group is RAA

Amendments, please note that there's quite a few suggested WHOIS changes in that proposal that I think you'll find of interest.

And then there also is a Joint SSAC/GNSO Working Group on WHOIS internationalized registration data. They are presenting here in Cartagena, so I believe it's Thursday morning at 9:00 local time. Very interesting issue, interim report being proposed, and I just want to note that Steve Shang is one of the primary staff people supporting that Working Group, so you have an excellent resource there, in terms of technical aspects of WHOIS. Steve also wrote, recently, a WHOIS service requirements inventory report that was requested by the Council, GNSO Council last year, which is a compendium of all of the existing WHOIS service requirements for WHOIS, plus additional possible requirements that have been discussed in policy forums at ICANN over the years.

So it's linked here, and again, we're happy to spend some time talking this report through with you. I think the thing I really want to emphasize about this report is that there are a of court requirements that just are the technical underpinnings for how we would be able to support various policy initiatives. Not any recommendations on any specific policy changes to WHOIS, this inventory was done, again, at the request of the GNSO Council.

Here's some of the information, some examples of what's in that report. The kind of things that have been discussed in previous forums as improvements to WHOIS that at least some

communities or some parts of the community think should be changed. The Council has not yet discussed this report, even though it's been several months now since we did it. But they will do so at some point, and they'll be considering next steps.

We have a section here on IANA, because as you may know, the Internet Assigned Numbers Authority provides a WHOIS server, which provides the ability to look up information for a certain subset of domains, and also in 2010 IANA announced the launch of an experimental WHOIS test server, and has been encouraging the community to try it and provide feedback, so you may want to take a look at that.

I mentioned one session in Cartagena on WHOIS, and that is this interim report on the internationalized registration data Working Group, which is Thursday at 9:30 a.m. local time; but there also is another session just following that on what we're calling the technical evolution of WHOIS. Where a group of technical folks within ICANN, led by Steve and by Francisco Arias (sp) have been taking a look at kind of technical options for WHOIS, whether to enhance the current protocol, whether to take another look at the IRIS (sp) protocol which has been something that has not gained traction in the community because of some significant challenges in implantation there, and now to take a look at kind of a potentially new option for WHOIS, a web based WHOIS service based on an http based representational state transfer protocol, called restful WHOIS. That's been implemented by a couple of

RIRs, by ARON and by WRIGHT in different formats. Steve is the expert on that, so I'm going to stop there.

Yes, there is remote access, thank you, to both sessions. They also will be recorded and transcribed, and I really encourage you to participate in those. And then we do have some links to other reports and references in Annex A. It was my intent with Annex A, really, to make this kind of a working document that perhaps all of the Review Team members might contribute to. This is all outside reports, non-ICANN produced reports of information. A study by Ben Edelman at Harvard, a GAO study that was done, there's one more, U.S. Federal Trade Commission study; and again, if you have other studies or information or reports or papers that you think would help you all and inform your colleagues, I believe that's something that should be dynamic, and something you should be encouraged to add.

Annex B is my current status of the GNSO Council requested studies. This will change; this will require frequent updates, because this is a work in progress. I have been providing updates to the Council; we'll try to keep this up to date too. And then I think the last Annex is based on questions that came up about the RAA, and the fact that there's really two RAAs, and the status of the current RAA amendments. And I think that concludes the background, at this time. But I would just simply say that we're happy to try and keep this up to date, and add to it. We encourage you to do it, and if you have any questions on the details of what

I've covered, I'm happy to provide information at a time that's useful.

Kathy Kleiman:

That was amazing. That's like a tour de force that gets us in right under the gun, right at time, so thank you Liz. You know that there's going to be about a million questions over the next nine months that we're going to have on these documents. But let me ask, right now, whether there are any questions from here locally, or on the telephone bridge, for Liz. There is a question from Michael Young.

Michael Young:

So Francisco and Greg have been going around doing a bit of a road show on the WHOIS technical considerations. I think that this kind of briefing beforehand would have helped a lot, because this whole presentation that we've seen, and I assume they've given the same presentation to everyone. But at least to the registry stakeholder group left a lot of 'where are the requirements' questions, because they came in with an answer before the question, I think in some cases. Having a technical background myself, the first thing we always start with is what problem are we trying to solve, before we start building things?

So I think this presentation was really useful, I think it would be good to road show this presentation to put the other presentations in context. Sorry, my name is Michael Young, I'm with Affilius and a member of the registry stakeholders council.

Kathy Kleiman: This is Kathy. I'm just going to add my frustration and concern as I look at all of this, which is – as a review team I would like to stop all work in progress, review it, and then continue. I'm not sure how to deal with systems in motion, so I throw that out as my question, how do we deal with a system that is changing, even as we're trying to review and evaluate it? Wiliefried?

Wilifried Woeber: First of all, I would like to very publically say thank you very much for this compendium. That's a tremendous piece of work, and I don't think that anyone within the review team would have been in a position to pull that together. Not even 50% of that or even less. So thanks for providing us with that, and the second small comment is I think it's really, really interesting; my original background is the IP resource registry for the (inaudible 1:57:01) region. Just a couple of weeks ago we had a presentation by an individual from Poland and most of you probably know that Poland and the polish language is one of those funny things which has funny characters, like the German language has, and some of the Scandinavian languages have, and the Latin Americans have.

His proposal actually was to identify the WHOIS registry for the IP resources. That's actually also in the vicinity of law enforcement's requirements, because he has pulled up very, very interesting examples, that if you remove these funny additional hits from the characters and trim it down to 7 bit ASCII, you end up with a completely different meaning, and you also potentially end up with collisions. If you feed that data later on, for example, to law enforcement, it could be really interesting to find out what

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happens. I just wanted to put that back to the domain name arena, that already in the resource registry arena, at least in Europe, we're starting to think about those issues. Thank you.

Bill Smith:

This is Bill Smith. I absolutely agree these are things that need to be done. I guess my comment is that I believe however, that at that level this is an issue for the IATF. It's a protocol issue; if it's seven bit ASCII, that's IATF. It may be a requirement that we have, but the work would actually have to be done at the IATF to change the RFC.

Kathy Kleiman:

I have to say, it's been 20 years since my life as a techie, and my head is now spinning. So Wilifried, I hope you'll take us through that more slowly and explain the terms, because now I still jump to IP is intellectual property and have to go back to internet protocol. So there's a lot here to grapple with, and I'm really glad that you're here to give us – as soon as I heard your name and heard your background, I'm like "ip addresses are going to be critical, as a basis of comparison, as a basis for just a lot of information" so for those of us who aren't in the technical world, thank you for taking us through that, now and in the future.

Lynn, Susan, Sharon, last word goes to you.

Lynn Goodendorf:

This is Lynn. I don't have any further comments or questions, and I would also like to thank Liz. Having all this background information is just such a big help. Thank you so much.

Sharon Lemon: Sharon Lemon here, that was really useful. Are we going to talk about the London visit further, or is this my last opportunity to speak?

Kathy Kleiman: Has Emily joined us? I can share that the agenda is – Emily’s working on a draft agenda, but Sharon, please go ahead. I know you’re spending a lot of time and energy organizing for London, so if you would like to take that last – a quick presentation of London, what’s happening, please please do.

Sharon Lemon: Okay, I can’t wait to meet you all. I think that we’re all in a face to face meeting things will move on in leaps and bounds. I’m really grateful to be the first host of our first face to face meeting. I want to make the event as special as possible for all of you, and if anyone wants to do anything while they’re in London, please take time to email me and if I can facilitate it, I will. I sort of written up the whole week, so anyone coming up before the event, I can take them out of if they don’t want to go with me, then arrange for them to go somewhere. If you’re flying in to London, if we can we’ll try to pick you up from the airport, so I want to make it as nice as possible for you all. And that’s about it really. I know Emily is working on the agenda, she’s asked me to try and arrange someone to speak from law enforcement, more than me, which looks like a great deal. So hopefully we’ll have a great time, and I can’t wait for it. Have a great Christmas, if we don’t speak before that.

Kathy Kleiman: Emily, thank you so much for all you’re doing, thank you for so much time and effort. Not Emily, I’m sorry, Sharon. Thank you

so much. We truly, truly appreciate it, and are looking forward to being in London, and looking forward to being 100% attendance from our WHOIS review team in our first face to face meeting, so thank you for making that possible. Everyone is crossing their fingers, we really want everyone to be there. Happy Holidays to everyone. Any last thoughts from anyone? Olaf? Any last thoughts? Olaf has a last thought.

Olaf Kolkman:

This was almost dangerous, because Kathy almost stumbled and fell. But apart from that, last comments from ICANN stops at Board, but we had a few issues here with the technical rigging of the whole thing with the Adobe Connect, but I hope that message went through, and that you could follow it properly from remotely as well, and from our side as well. Happy to be of assistance and a very Merry Christmas, or Season's Greetings, what is appropriate to you. So thanks a lot.

Kathy Kleiman:

Happy Holidays, again, Sharon, apologies for calling you Emily, and there's a sense here that we've moved forward, so we're trying to convey and share that with you and face to face will be fantastic. Signing off from this side, happy holidays, bye-bye.

[End of Transcript]