

**ICANN Costa Rica Meeting  
Uniformity of Contracts Preliminary Issue Report - TRANSCRIPTION  
Saturday 10th March 2012 at 16:30 local time**

Note: The following is the output of transcribing from an audio. Although the transcription is largely accurate, in some cases it is incomplete or inaccurate due to inaudible passages or transcription errors. It is posted as an aid to understanding the proceedings at the meeting, but should not be treated as an authoritative record.

Coordinator: Excuse me. Today's conference is now being recorded.

Again, today's conference is now being recorded. Thank you.

Man: Hi there. (Unintelligible) started?

Man: Yes.

Man: Okay. So then as soon as they are ready they'll (unintelligible).

(Stefan): Okay. So operator, can we start the recording again, please?

Man: (Unintelligible).

(Stefan): So we're good to go. And we'll start with the uniformity of contracts. And (Rob)'s going to tell us about (unintelligible) Preliminary Issue Reports going to come out.

(Rob): Yes, sir. Thank you. Can everyone hear me okay?

Well to give you some background, because one of the things that I observed in terms of the presentation that I was asked to make today is that about 40% of the council wasn't actually here because many of you were new when some of these issues started.

And so I made you a little bit more background than was otherwise expected. If it gets too dry or detailed, please (unintelligible).

To give you a sense first, there's - backing up. (Unintelligible) GNSO Council passed a resolution asking staff to begin work on a Preliminary Issue Report on a topic called Uniformity of Contracts.

Uniformity is somewhat of a misnomer, particularly given some of the research that we've been doing over the last couple of months. Because the real fundamental issue is how to deal with abuse, how to deal with registration abuse and mitigate it, minimize it, prevent it as much as possible.

The resolution that the council passed was very specific. It said, "(Evaluate) whether a minimum baseline of registration abuse provisions should be created for (unintelligible) agreements." And then additionally if so, that's (unintelligible) structure to address those kind of (forms) of registration abuse.

Well I'm getting (unintelligible) background. This is almost a second (look) at the issue of registration abuse and uniformity of contract.

It was back in October of 2008 where the board (addressed) a (Staff) Issue Report and actually put a working group in place, the Registration Abuse Prevention Working Group, (unintelligible).

That group gauged on over 20 months basically to develop recommendations (unintelligible) registration and come up with (unintelligible) council.

It was a result of those recommendations that the council moved forward with its decision in October to produce another Preliminary Issues Report.

(Unintelligible) in terms of our work (unintelligible) was, you know, very upfront when the (request) was (unintelligible). This is not (unintelligible) turnaround in a very (short) period of time. And unfortunately I (unintelligible).

What our hope (unintelligible) (on track) with this proposal and with this effort. I think part of what I (unintelligible) if anyone has comments and questions is (unintelligible) priority to the council, what (unintelligible).

Preliminary reports (unintelligible).

Wanted to give you a general idea on where we are in terms of (unintelligible). Right now (unintelligible).

(Unintelligible) that were presented (unintelligible). They came forth with a number of very (unintelligible) recommendations, but not (unintelligible). And so we're trying to look back at that and make a determination (unintelligible) revisited (unintelligible).

The research that's done does (unintelligible).

I think there's (unintelligible) it did not (match) uniformly (unintelligible).

(Unintelligible) it can go into a (registry) agreement (with the) RAA. That can help (unintelligible) the industry with the (unintelligible) balance (unintelligible) or not for (stepping) (unintelligible).

It's been a very (unintelligible) challenging (unintelligible) that we've engaged on. One of the (unintelligible) that registration used to (unintelligible). And it's not (unintelligible) with some respect while there's (unintelligible) and improvements in (unintelligible) activities and other (unintelligible).

(Unintelligible) provide you with very specific ideas (unintelligible) can (unintelligible) specific direction. I mean, fundamentally (unintelligible) can use in agreement.

(Unintelligible) solutions to a number of the cases of abuse that you'd (unintelligible) (identify). (Unintelligible) thinking of 11 or 12 very specific types of registrations (used). And I think we're (unintelligible) and (issues) to exploit that not only identifies the problems, but provides you with (councils) with, you know, potential options for the recommendations for ways forward.

So (the next step) (unintelligible) within about (unintelligible) this meeting (unintelligible) talk about it and with the upcoming council meeting we hope to have final issue document for submission to the council for (Prague) and -- then depending upon the (unintelligible) for all of you -- either have you in a position to certainly discuss and maybe make some decisions with respect to a full-blown (PDP) at the (Prague) meeting.

And that's my update there.

(Stefan): Thanks (Rob). (Jeff), (a) question or any other further questions please let me know and I'll add you to the list.

Man: (Got through), right? It only requires one side of the - one (house) to actually approve it to go forward. So I want - my famous (unintelligible) based on that.

The reason we voted no was because there were so many other initiatives that were going on. Looking at our contracts or looking at our abuse practices and all that other stuff that we just did not think this was a priority for the council, nor did we - and there was also an element of we thought they were just looking too much into other things that were outside (unintelligible).

I want to remind everyone of everything that's going on now. And I have no idea where this sits in. But there's already a potential - or there's a (PDP) ongoing on the RAA which is already in the works, maybe it's stalled a little. There's already separate negotiations going on with the registrars on anti-abuse topics.

There's already new contracts that have been developed for new gTLDs to have anti-abuse provisions in them that we've never seen the outcome of how they, you know, how they play in practice.

There's also a best practices group or a best practices - I forgot what we called it. That's one of the items we talked about, the pending projects that have been dropped. Talk about best practices amongst registries and registrars on anti-abuse or abusive - to address abuse.

There are all these things going on (unintelligible). To me, this is an incredible (unintelligible). It's incredibly (duplicative) of so many other efforts that are out there. And frankly - and so this is not against the work that you're doing because you had to do it. I mean, you know, there non-contracted parties voted to support (PDP).

But we just have a flood of (PDP)s and action items that were all put into place all around the same time. And I just think we need to stop, take a breath, figure out, I mean, I was having a discussion with (Margie) and others. We're trying to figure out - the board had asked us to do a (PDP) on the (REA). But we don't really know what's going on with the (REA) discussions with the registrars, so we don't know where that's going to end up with.

But the board still expects us to do a (PDP) on topics that may or may not be already addressed. I mean, incredibly confusing. And so if someone could straighten out for me, someone could draw a diagram - I think I'm using (Marilyn)'s - who talked to us.

If someone could draw a diagram for me as to which topics fit into which (PDP) or which working group or which negotiation or which whatever we're doing, that would greatly help me. Because at this point I don't understand where this fits into everything.

(Stefan): (Thomas). Thanks (Stefan).

I have the impression that a lot of work -- particularly on this subject matter -- is currently underway.

You will know that Question 28 exactly asks about mitigation of abuse. So I think it's a little bit funny that we're trying to make up new strategies or develop new things that one could do while - in the (unintelligible). You know, probably excellent ideas are currently being written down.

So I would suggest in order to streamline the process and make best use of the intelligence in this industry that we did with the (UDIP) to postpone - at least postpone this for awhile to see what new mechanisms are being proposed by new gTLD operators or existing registries. And then see which one works best and define best practice from there.

Man: (Sorry), we're having discussions as to whether the council has the ability while we've been asking for the preliminary report to be done, to postpone the rest of it.

So I'm not sure we have an answer to that.

(Stefan): I mean, anyone feel free to chime in. I've got (Chuck) and Zahid. But, you know, there's some good suggestions coming out this discussion I don't think we can ignore. It's just maybe (Chuck), you are a well of knowledge. You can...

(Chuck): No, I can't help you there. I'll let (Ellis) work on that. (Rob), could you move back to Slide 4 - 3, excuse me.

The last bullet there -- and I'm guessing probably you guys understand this already -- but the wording bothers me a little bit.

Establish a working group to (ID) and develop industry and anti-abuse provisions the community can use in agreements. And the community's not party to agreements, okay, and there are specific business and legal reasons for that.

They should have lots of input into those. I would just be careful how I word that one. Obviously through a (PDP) -- which is what this is all about -- that could impact agreements.

And I'll just leave it at that. You understand it.

Man: Yes, thank you. That's a very good point. When I think of the community I think of registries and registrars as being a part of it.

Man: Yes, we are.

(Stefan): Thank you. Zahid?

Zahid: I think there was a working group, a community working group that identified this with -- if I'm not mistaken -- registrar and registries onboard. I don't know what kind of representation but there were some there.

And this was -- if I'm not mistaken -- identified as a priority item. I don't know what the actual terminology was, but it was a priority item. It's not one of those low level priority issues.

It's an important issue that a working group that I think worked on a serious issue like (RFP) identified. It came to council. And yes, there was not complete agreement, but a sizable number -- that is what our charter says -- agreed to go ahead and have an issues report on.

This is not a (PDP). A (PDP) would follow if supposing there was - so I think it's maybe premature to start saying oh my goodness there's a lot of work that's going to go into it. It's just an issues report, number one.

Number two, in any case I'm not so sure that it's not a priority issue. But again -- as I said earlier -- this can be dealt at the (stage) once we have an issues report when the voting takes place on whether there should be a (PDP) or not.

And that's when we would decide -- I guess -- to postpone or not postpone this.

At this stage again - I'm repeating myself I know, but it's premature.

Man: Thanks.

Zahid: And once it's been passed as a resolution, I think it's very difficult to say let's turn back the clock.

(Stefan): Any further comments? (Jeff)?

(Jeff): Just to reiterate the point that, you know, just because a working group that was comprised and dealt with God knows how many years - I think that was 2007 that working group started. And then made its recommendations in 2009 - '08, somewhere around there.

Things have changed. There's a lot more activity going on on the anti-abuse since then. And if someone could get me clarity as to where everything fits in

and what topics this group would address that's not already being addressed in every other thing that's going on.

We've already delayed the best practices between registries and registrars, which frankly I'd rather do that than talk about what the contracts say. I would much rather start that first than, you know, talk about the legal agreements.

And I think probably the community would agree with that. But again, until someone gets clear in our minds which is addressing which - and I'm getting confused so I'll stop. (Stefan), back to you.

(Stefan): Thanks Jeff. Any further comments or is everyone confused? Looks like I have my answer there.

So can we bring this to a close, (Rob)? Yes, okay, good.

So we will - can we go straight into the next session? Operator, please stop the recording on this one.

Coordinator: Yes, it will be just one moment.

(Stefan): And start the recording on the (unintelligible).

Coordinator: This concludes today's conference. Thank you for your attendance. You may disconnect at this time.

END