CR - WHOIS Policy Review Team (WHOIS RT) Meeting
Wednesday, March 14, 2012 – 08:00 to 17:00
ICANN - San Jose, Costa Rica

Emily Taylor:	We're a little late in starting. We're going to use the first hour today, or what's left of it, to prepare for the meeting with the Board. And then after that, we will return to this room and I think just have a brief powwow about what we've heard since we last met from people that we've spoken to or meetings that we've attended and just have this sort of orientation session, identify the major issues that will benefit from face to face discussion and then set up a process to take us from here to our final report.
	And just as a – if I can just put in my bid on this, I think we should probably let's revive our fortnightly calls and those will be nice pulse points, if you like, to act as an incentive for us to do the work that we will be promising to do. Okay, so I'm just waiting for a couple of more people to join us and then we'll get started.
Lutz Donnerhacke:	So for my planning I can go out, I have to buy something before the shop is closed and then come back later; that's okay?
Emily Taylor:	Lutz, you might want to – so in one hours time, or just short of one hour, we'll be having our session with the Board. That I think would be a good time and then maybe, yeah.

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Lutz Donnerhacke: So it's on at night on my time? I will come back very late. Okay, thanks for the update. Bye.

Emily Taylor: Hello everybody. I think that we'll get started now that we've got our coffees and we're all orientated. We will be going across to meet with the Board at quarter past time local time, and so what I'd like to do is use this time now to think about that session, which is an important session. It's our first and will be our only face to face with the Board during our life as the review team.

And as well as hearing, we had a call with them a couple of weeks ago where we took them through the recommendations. I think it's fair to say that many of them have actually read the report, which is encouraging, and so I'm hoping that we won't have to spend much time today doing show and tell, but really have an interactive dialogue which would be very useful.

Peter and I were just having a chat before everybody arrived, and one of the issues that I would particularly like to discuss while we have the opportunity, before we go into the deep dive of what they think about the individual recommendations or typos or whatever, is to try to open up a discussion about the role of, this is now a review team process; the affirmation of commitment reviews will be running more or less constantly. There will either be just about to be formed doing their work, or at implementation pretty much constantly.

And so there are a couple of things – but the continuity of the process has not yet I think been explored, and that's something that I'd quite like to spend some time on if we do, so that's my bid for what I'd like to discuss. Is there any other issues that we would like to raise? Peter.

Peter Nettlefold: Just briefly, I fully support that; I think that's one of the really important sort of broad questions to discuss with the Board. We've talked about this a fair bit in the review team as well, I'm sure were all aware, in broad terms as we keep looking forward to the next review team ourselves, in terms of the way that we crafted particular recommendations, wording wise I think has been very challenging for us to figure out the exact role of what these new AOC review teams, how they fit into the broader ICANN structure. So I think sort of a high level strategic discussion with the Board would be great.

And then probably before we go into the detail but at the same time we could flag that some of our recommendations are actually looking at the review teams in this way. I mean, a good part of what we've done with accuracy is actually look forward to the next review teams and try to make sure they're better set up then we were in terms of having actual factual data to work with. So yeah, I fully support that suggestion.

Emily Taylor: I don't know if it will come up, and I'm not going to raise it if it doesn't, but there has been a theme, both in Steve Crocker's mail to me, but also in a one to one that I had with another Board member about the role of the Board on quality control, which we discussed the other day. I'm not

going to raise that unless it is actually brought forward on behalf of the Board, it may well be. That was my plan; I don't know what any of you, what views any of you have on that.

Bill Smith: I just didn't care that I missed a word. I'm not going to bring up the "what?"

Emily Taylor: Oh. In Steve Crocker's email to me there was a sort of question about how the Board should ensure quality of output from these reviews and the role that it plays in quality control. I responded to that at the time and I thought that that sort of closed the matter because I didn't get any negative response from Steve on that, but another Board member mentioned it to me the other day. So I just thought that I'd flag that it might return and that my feelings on that are fairly trenchant.

Bill Smith: Bill Smith. I spoke with Steve and Bill Graham last night, at some length, like a five minute conversation. And both expressed some concerns about how Steve's comments were received. I made it quite clear to them that I wasn't pleased with the comments coming from the Chair, the way they were. I also expressed what I expressed here, that if they were taken more as a peer review for a technical journal that I saw them in a very different light.

Steve in particular is, I think he's genuinely concerned about the quality of the reports, and I think it's more as a peer as opposed to oversight. I

am concerned with the Board inserting itself too much into the process, as we mentioned the other day, because quality can be used as a way of control. And not necessarily in the terms of the quality of the report, but in terms of "we're just going to control the content of the report." I don't think that was his intention. But my concern is that Steve may not understand some of the political shenanigans that might go on if the Board was in a quality control capacity.

Emily Taylor: So the conversation was to check whether I was just going native or just going out on my own and expressing views that weren't help by the rest of the review team?

Bill Smith: There were some comments about that.

Emily Taylor: Well certainly Bill Graham said that he thought I overreacted to it.

Bill Smith: Yeah he did. I made it clear to Bill, I reacted at least as strongly as you did. But I then continued and said "But when I reviewed them in a different light then my perception changed." These comments did come from the Chair of the Board, and that's a perception. It was a very good conversation with both of them. I also made it clear that our work had been very difficult at times, challenging, we were very tired. Not necessarily at the moment, but we had been doing this a long time, it

was very difficult, and to see some of the comments we received was basically difficult to take it at that moment.

Emily Taylor: That's a very fir comment Bill, thank you. And I agree with everything that you say, including the spirit in which I believe a lot of the detail comments; I think that they're worth looking at. I think that as Chair, that this is part of what I was trying to get the conversation with the Board about this morning is actually trying to just establish what the role of the Board is with regard to these reviews. And that in fact it would be much more helpful, in my view, for future review teams to have regular meetings with the…Yeah.

Bill Smith: This is Bill Smith. I agree. I think that's an important thing. The Board, from my perspective, was unusually absent. And as a consequence…

Kathy Kleiman: During our work?

Bill Smith: Yeah. Well we asked for conversations and they basically, every request was politely rebuffed. But then we found ourselves in a situation where we have a final report, draft final report, and some Board members are reacting to it. Last night, Bill Graham thought that at least in the Executive Summary that some of the wording was a little too pointed. And I said well you have me to thank for that, probably for most of it, but that there are a number of issues here that have not been

addressed in a very long time and they need to be addressed. So yeah, the language may be a little blunter than you prefer, but we're trying basically – at least I, in writing some of those, was trying to make a point about "this has been going on for a long time and it needs to be addressed."

Emily Taylor: Peter, Susan did you want to…? Peter and then Kathy.

Peter Nettlefold: I guess there's a few things to comment on there so just while it's fresh in my head, your comments Bill about the language and the tone and so on. If we have a chance today, we will be with the Board, we should ask them their opinion in a public forum. Because it's very useful to have feedback behind the scenes, but as you said, so far we've not had a lot of substantive input from the Board. If there are concerns about tone it would be very useful to hear them. As you said, some of the language it quite pointed, but we in doing this did discover a lot of troubling things.

We did discover that despite a broad community perception that accuracy is important we've heard from the ICANN staff side that maybe it's a new requirement. We know that a quarter of the records are uncontactable. And we've heard a lot of community comment that it's really unacceptable and is causing huge problems for them.

Similarly, the privacy proxy servers, we know that there is a big demand for them, but despite that no one decided to develop any polices yet. And so we have an industry, which has grown up in the margins, essentially completely unregulated with no rules or standardized

processes. So just on those two issues alone, never mind the IDN issue, the accessibility issues and so on, there are some big issues. I think we can justifiably say that we identified big problems, so we wanted to point to those.

On the issue of Board involvement, let's hope it doesn't necessarily come up, but if it does come up, in terms of a reaction to an email, I think we should probably focus on the level of principle. As a matter of principle it's a public process, submissions and comments to the review team should be public. We're happy to have obviously private discussions and so on, but in terms of matters of perception, if written communications are exchanged between people with former roles within the organization in that they need to be public, I would think. Otherwise, if it becomes discoverable in a later stage, it's going to foreclose problems for everyone involved.

Emily Taylor: I completely agree. And if I can make a personal request I would find it much easier if others made that point rather than me.

Peter Nettlefold: If I could just add as a very concrete example, I'm the government representative here, every communication I have is discoverable under Freedom of Information Act in Australia. So that email would be able to be discoverable if my involvement in this review team was a subject of an FOI request, so it could become public. And the perception, if there was an exchange of comments between the Chair of this review team and the Chair of the Board, and it hadn't been made public, would

question the independence of this team I think. So in terms of the tone and so on, that's whatever. But in terms of a matter of principle I think it's pretty clear.

Emily Taylor: And it was entirely on that level that I was reacting because I'm always open to comments. And reading through Steve's comments I thought a lot of them were very fair. It was the public process, the matters of perception that I feel deeply uncomfortable about.

Kathy Kleiman: it's funny just because I've known Steve for many years and he tries not to offend people and I think, I'm glad you told him how you felt about the comments, and behalf of all of us that the tone and what he was talking about struck as us very odd.

Emily Taylor: And I felt sort of quite – sorry to interrupt you Kathy. I felt quite uppity on behalf of you guys because I feel like it's been a privilege to know you and work with you all and I've been extremely impressed by your professionalism and the quality of this team.

Kathy Kleiman: That said, there's been a culture for 10 years on this issue, which has been pretty rough and tumble. And people kind of really get to their point fast on WHOIS because they know no one is going to talk to them for more than one minute once they start the subject. So what I did, I kind of read his comments in light of the culture that has been.

Regarding the Executive Summary, in some ways we're trying to create the culture that will be and in that vein I wanted to suggest that we change the tone of the Executive Summary, and let me tell you why.

And this might be interesting for the Board also, just as a kind of… I didn't mind the tone because I really wanted people to wake up and see what we were talking about. This community that's glazed over its eyes for 10 years at WHOIS, really trying hard though, you have no idea how much time we've all spent on this, you have some idea.

So I was with us on the process of waking people up and saying "this is what we're hearing," but that was the waking up part to get them to pay attention to our recommendations, and I think they did. I've heard from lots of people that they're offended by some part. The WHOIS studies, you'll see it in the registry stakeholder group comments that the WHOIS studies are kind of shunted aside when we spent a lot of time designing the WHOIS studies that are now in play. Staff apparently feels badly; everybody feels a little badly.

And we could use that in kind of a destructive way, or now we could change the flavor a little bit saying "Now that we're all on board with the recommendations, we're trying to build this community in a positive way again," and blunt the rhetoric a little bit. Even if we didn't intend it people misinterpreted it, because remember, they're going to hone in to whatever section seems to impact them – so compliance or whatever – and so it might be nice to consider blunting it because we're setting the tone for the future and we're trying very hard to do that in a positive way.

And what you're pointing out is that Steve kind of continued the way we've been talking about it. But let's draw line in the sand, let's for us make this constructive and positive, as so many of our meetings have been in the last few days.

Emily Taylor: Thank you. Susan did you…?

Susan Kawaguchi: This is Susan. It's funny Kathy that my interaction with ICANN staff has been pretty positive about our approach to the WHOIS and I have not gotten feedback from the staff that I talked to, that is very involved in the WHOIS issues, and they haven't felt we've been negative at all. They've felt we've been, we've seen the reality of the situation and we're highlighting it. Even though there were definitely some comments, or a few bits of wording in the Executive Summary that I think when we went back I had said "Maybe we should tone that down" at that time, but I also could live with it because it was true.

So I'm not sure that we want to, I mean if we do any redrafting of that, I would be rally hesitant to change it very much, because I think you guys worked really hard on that document and it comes out with a pretty clear picture of what's going on. And we can blame Bill.

Emily Taylor: I'm always happy to do that.

Bill Smith:

And I'm happy to take it, especially in this case. I made it clear to both Steve and Bill last night that I was the author of that, largely, and that I was responsible for many of the pointed comments. And that for me the important thing though was not the commentary in the report, it was the recommendations. That's what we care about, is moving the ball forward. And basically if people have problems with the blunt comments, if they can truly demonstrate evidence to the contrary I would change it.

The last point for me is, for me our report is not to the community or staff and any of the blunt language in there is to the Board; they're the responsible entity here that has allowed this thing to go on for over a decade.

Emily Taylor:

Yeah. I think that we will be making, we'll be just having another look at the entire report in the light of what we've learned and what people have said to us. As you said Peter, some of the things that we found were deeply troubling and I wouldn't want us to pull any punches. However if things are just an unsubstantiated comment then we can perhaps fill out the substantiation for why we think that. I don't think anyone would have any problem with that. So I've got Kathy and Peter.

Kathy Kleiman:

Just a note, we're all authors. Nobody's name is on any of the chapters, so we're all the authors to this report. And it is to the community because a lot of this is going into PDPs and what they're going to do is go back to the chapters to read what it was we were concerned about

and that in the end they're going to have to solve. And in a lot of chapters we've given a lot of background on what we're concerned about. So I think the report is to the community and I think we're all equally authors because our names are all in that front section.

Emily Taylor: Thanks for that Kathy, and I think that's definitely the spirit in which we've gone forward here when we all signed off that Executive Summary and all aspects of it because we could all live with it. Thank you. Peter.

Peter Nettlefold: I'll just agree with pretty much everything which was just said. I agree with we will all be considered authors so I think we probably should all make sure that we're comfortable with what we're signing off. But blaming Bill aside, which of course we would do in private, but look, and as you said Emily, we'll be revisiting the whole report. We had a very busy time finalizing the draft. We will now have, I hope, six weeks to finesse. It's substantially there. As far as I've seen so far from the community comment, there isn't a need for wholesale rewrites and revisions. As we already said, it's clarity and potentially some tone issues.

Look I can well imagine, having not read the Executive Summary in its entirety in a while, I keep revisiting the recommendations before each of our meetings here. But I can well imagine what the two or three phrases which are most likely to cause the problem. And look, to be honest, if they had the edges around it a little bit but they kept their

firm tone without necessarily the spiky bit, I'd probably be happy. I think so long as we get the message that there is a problem and it really is a problem and it really does need to be fixed, I think that's the message; whether it's finger pointing or it's broken or the community has dropped the ball or something, we can probably not say it in those ways. I hope that helps.

Emily Taylor: Well I think we seem to be on the same page there. And I think we'll be, so the way I'd like to approach this next meeting is to attempt to have some sort of high level discussion about this process, about the role of the Board in the process, what we will be doing now; the kind of general tone of feedback that we've had in our tours to date. And then listen to what they have to say. As I said, if I could particularly request others to take the mic on the Steve/Emily exchange, that would really help me. But that would go well.

Kathy Kleiman: Follow up question – do you want…

[background conversation]

Emily Taylor: I think it would help to make the point that Peter made encapsulated so briefly is the issue about this being a public process. And one of the things that I would like to let the Board know is how impressed I am about the way ICANN has gone about sort of creating a process which is

very transparent; that even these discussions are all recorded, they're transcribed, they will be available. The interactions and the comments that we have received from different stakeholders are very apparent. And this I think gives everybody, and most of all ICANN, a great deal of protection. Because the matters of perception, as you described it, are very powerful and are very important for the credibility of the organization and the process. So yeah, we might just deal with it on that level. Bill?

Bill Smith: And we might, for me there were a couple of other instances – the call with senior staff that was not recorded. A request for recording was made. I don't intend to, there's no blame here, but it didn't happen. It was one of very few meetings that we held where there wasn't a recording and a transcript. Private communication from the Chair to an independent review team is not a good place to be, and that's the team's perspective. So I think we could state it as…

Emily Taylor: Comments are welcome.

Bill Smith: Well yeah, but that ICANN has done a fabulous job, in my opinion, in the setting up this in a very open manner. But just some suggestions to be sure to carry through on it. And for me this is not a huge negative, it's just let's please, we all need to be cautious in this process. I think we all have conversations in these things, it helps. But if you're going to make a substantive comment or something it has to be on the record.

Kathy Kleiman: But Steve's comment was on the record though wasn't it? Because he submitted it, I thought that he submitted that letter…

Emily Taylor: No, I submitted it.

Kathy Kleiman: Oh.

Bill Smith: It was a private communication yes.

Kathy Kleiman: Oh, I apologize. This whole time I thought; because I saw it on the comment list.

Emily Taylor: No. That was because I said it should be on the comment list because it was comments.

Kathy Kleiman: Okay, so it's his name, but he submitted it after?

Emily Taylor: He didn't submit it.

Bill Smith: It was not submitted.

Male: Do we need to discuss it or to give any public comments on it?

Kathy Kleiman: No, no, no, it's on the comment list.

Emily Taylor: He wrote a one to one me off list, I responded and copied the list in so that it would be on the record. And then I made a specific request to Alice to grab his comments and put them on the public comment. And I got no resistance from Steve to that, I'm sure that was his intention because how could he object.

Kathy Kleiman: Okay because I always thought he said "This is what I'm going to submit."

Emily Taylor: No he didn't.

Bill Smith: No it placed Emily in an especially uncomfortable position and the review team by extension. You could drop a few of the letters at the end of that word, that's also told to us.

Female: Just an FYI – your meeting with the Board is public, so there will be an audio cast and recording and so on. The Board meeting will be in Tiffany's. Do you know where that is? It's very close to hear on the left hand side. Thank you.

[break]

Emily Taylor: Okay, shall we crack on?

Kathy Kleiman: Crack on?

Emily Taylor: Is that a bit Wallace & Grommet?

Kathy Kleiman: I wanted to dance around our handbags.

Emily Taylor: Okay. Right, Kathy and I have just put our heads together about how to conduct ourselves for the rest of the day. I have to leave you all at 3:00. We've got lunch here in the room, although we will take breaks when we're flagging. We've had a nice break now. We've had a relatively easy start to the day, let's see if we can push through and have a working lunch. I think that what I'd like to do first is have a quick tour d'table about what we've heard in the last week, what we've digested

from the various interactions that we've had and the comments and what you personally think is our priority to work on or change.

Then I think I'd like to hear back from the small groups who were looking at text for us on the problems that we identified, if we've got anything to say on that. And then we will, there's generally, in very high level terms, there's going to be issues that we can deal with because we agree there is a point or we've not been very clear or something and it's really easy. And then there's going to be hard stuff where we've had feedback in or we've had a change of heart on our own part. Let's just air those. I think it's important to get the big issues out on the table that people have either given to us or we feel, but I would emphasize let's not use this as an opportunity to reopen from scratch all of our recommendations. I think I've said before, our consensus was hard won, so let's just view that as default.

And then finally, and then I'll come to you Sarmad, I want to leave here with a very clear plan ahead with volunteers looking at – I think that we could probably have two or three people looking at the text of the entire report, because there's not going to be that much that changes. But we have had some comments which I think are relatively fast. And also just a general coming back to it after several months; we'll have a fresh pair of eyes over it. Then I want another group looking at, and we will probably all be doing this in fact, our focus as the whole team will be on building up our executive summary with the boxes of findings and recommendations.

I think what we took away from the way that Kathy presented will put together the public comment slides was it's really helpful to have

"finding," "recommendation," "finding," "recommendation" and so that will be the format that I think we're all comfortable to adopt. And then Denise, at some point, I'd quite like to hear from you on process. There will have to be another comment I guess on the final report and what we do with that, that sort of does give us a big motivation to either accept or deal with the comments in total. We don't have to accept every comment, but I think we can say we will have to respond to the comments, all of them, in some way.

So I've got Sarmad and then Bill.

Sarmad Hussein: I was actually going to suggest at some point, maybe early on if possible, if we could go through all the recommendations without really having a substantive discussion on them, but just flagging them whether they're okay as they are, need minor revision, editing, textual revision, need perhaps significant rewrite, need discussion and rewrite. So maybe make some categories and go through this very quickly and then come back so that we have more of a...

Emily Taylor: That might be a very nice way to structure our work Sarmad. Thank you for that. Actually should we have a...

[background conversation]

Emily Taylor: Actually yes, let's…

Bill Smith: Bill Smith. The review or comment period for the final report, my understanding is that that actually is a review of a document under the Boards control, so it's not our document in a sense anymore and we don't have to respond to any comments that come in, formally. They're commentary to the Board.

Emily Taylor: Thank goodness.

Denise Michele: So just to clarify the process. Obviously the public comment forum on the draft report that's closing on the 18th of course is the review teams comment period, and if you haven't I would suggest you talk about how you respond to the comments that are posted. And then the final report, when you finalize your report, you send it to the Board, and effectively your job is done. The Affirmation of Commitments requires the Board, when it receives the final report, to post it for public comment.

And so as Bill said, the public comment period on the final report is owned by the Board, if you will. And that is it's the Boards responsibility to consider the comments on your final report and factor those into the Boards subsequent action on your report.

Emily Taylor: That's really helpful; thank you Denise. Yes?

Female: So if in this process as the Boards reviewing all of this and they decide to accept some of the recommendations and not all, is there any recourse? Does the team have any ability to come back and push the Board, except as individual stakeholders?

Emily Taylor: I think this is a really interesting issue Susan because it's something I've observed from afar with the ATRT. It's that the ATRT no longer exists, but because the individual members – the Chair, the vice-Chair and several of them come to ICANN meetings anyway, they've sort of formed a sort of ad hoc alumni of the ATRT. Now I won't be here, I won't be coming to ICANN meetings from now on, or I'll have no purpose that I can foresee. And many of us are in the same position, we wouldn't ordinarily be attending, so we will cease to have a function. And I have the very same question that you do.

Denise Michele: You know we're somewhat in unchartered territories here being as this is the first WHOIS Review Team and the very first round of affirmation reviews, but I can tell you what we've done with the ATRT. About at least ever trimester, sometimes more frequently I have an ATRT alumni list and I keep them updated on implementation and Board actions on their report. And after the ATRT final report was submitted we did have quite a bit of back and forth with the ATRT and specific Board members – ATRT members as they divided up sections of the report and different

ATRT members had responsibility for it. And so when we needed more in-depth clarification and feedback of "Is this what you meant? Are we doing what you expected? Do we understand this properly?" we had that kind of interaction with them.

Technically the WHOIS Review Team will cease to exist as an entity after you submit the final report. That is not to say that your additional comments and feedback wouldn't be welcome. But rest assured that I've got all your email addresses and I'll keep you closely apprised, whether you like it or not, on how this goes forward.

Emily Taylor: That's really helpful. I've got Seth, then Kathy, Sarmad.

Male: The RT4 WHOIS email link, will that remain active or that will go off?

Seth Reiss: Yeah, I was going to suggest we have a reunion since we'll cease to exist. This is kind of a fundamental comment. When I was doing a presentation to one of the, I think At-Large groups, I re-examined the Affirmation of Commitments and I didn't see anywhere a suggestion that we even make recommendations. It's findings. And I think it's very important that we make recommendations and I'm glad we're doing that, because I think the Board is ill-equipped to move without those. And I think the Board appreciates it too. But I think we should keep in mind that our real charge is the findings and than maybe some language tweaks in recommendations might be appropriate, particularly in the

area of like the 50%. So I just throw that out because it's something that struck me.

Emily Taylor: Yeah. I think that's a theme that we will explore in this session. I'm looking forward to that. Kathy and then Peter. Hello James, welcome.

Kathy Kleiman: Quick question for Denise. Denise, is there anything that comes to mind that you want to flag for us now as a concern, kind of a preview of coming attractions. It's actually something, a number of us went out to our own communities to say "Look the comment deadline is Saturday but we're meeting on Wednesday; kind of let us know your bullet points." I know I went to several communities, some of which I was a member of and some of which I wasn't and said "Wednesday, get us some thoughts now." Anything you want to flag for us that you see is unfeasible or that you think may pose a problem down the line so that we're not surprised?

Denise Michele: I am still finalizing input and discussion and agreement internally with the staff, and so those are not the type of comments I'd want to make on the fly, but rest assured that we'll be giving you something in writing that suggests clarification and lays out what we see as feasible, problematic, and past implementation just for your consideration.

Kathy Kleiman:	Does any of it make changes to the recommendations that would be helpful kind of to put in the codified form?
Denise Michele:	So I'll be following up with an email. It's not something I feel comfortable representing and going through you on a specific level at this point, but rest assured you'll get language soon.
Emily Taylor:	I think it's going to be great to have that just after this meeting as we're all recovering, and then I think that we will schedule a call in probably a fortnights time, reviving our Wednesday slot. And one of the first Action Items we should have is to go through those comments from staff and to do that. I've got Peter…
Kathy Kleiman:	So that's two Action Items, one is reviving our calls and two is going through comments from staff.
Emily Taylor:	Peter.
Peter Nettlefold:	Actually I can't remember what my previous comment was. But on the calls, I guess we're getting pretty close to the end and just thinking through the logistics of the calls, it's a good idea, but I will plea given the range of time differences and so on, I'm not sure how we would decide to schedule them, but can we, it would be great for discussing issues

and working things through, but can we not make any critical decisions on anything that may be contentious on the call?

So if there is going to be a change to any text and so on let's do our very best to do it today. If not then let's do it online via the mailing list and set appropriate deadlines and so on so we can make the progress. I think everyone would be, if they couldn't make a call because it was 2 a.m. and a decision that was quite critical got made it would be quite disappointing.

Emily Taylor: I fully endorse what you're saying Peter and that's why I'm hoping that we can just bottom out all of the contentious issues, any changes of wording to recommendations right here and make sure that we're leaving this as comfortable as possible with the proviso that if we get feedback on feasibility with staff, then we will have to respond to that. Kathy?

Kathy Kleiman: And also the proviso that we've set a comment deadline that's a few days away and there are people who aren't here, who can't afford to be here who are outside of here and we're still in comment mode I think until the weekend. So things may still come up.

Emily Taylor: Okay. I'd like to take up Sarmad's suggestion and focus our work now, and we've got this, I can't remember if you've all got it. It's a very useful digest, it's from the 6th, but it does at least lay out the

recommendations and the comments we had until then. Can we just go through the recommendations, we don't have to do it on this, but just look at the recommendations and sort of basically put them into two baskets – the sort of "this is fine, it's not even causing any comment" and "this we need to focus on." Yeah, will that work for everyone?

[background conversation]

Emily Taylor: Starting at number one. Can you, actually if you use the screen we had for the Board, that's probably going to be the best way.

[background conversation]

Emily Taylor: How long do you have?

James Bladel: Until about 2:00.

Emily Taylor: Until about two?

Peter Nettlefold: I'm at two too.

Emily Taylor: Oh good. I'm hopeful that we should have done the guts of our work by then.

Bill Smith: I have to leave about 11:45 for about an hour. I've got a DNSSEC panel that I've been roped into.

Emily Taylor: But you're then returning for the rest of the session so we can catch you up? Okay. Good right, recommendation number – actually is this the best format? Perhaps the other one, would you mind doing the blue one; the condensed form one, the boxy one.

Kathy Kleiman: I just want to put on the record, since this is record, that I have hundreds of notes at this point from comments that have been made from all over as well as from written comments as well as from the session, because I used the template and I want to show you what it looks like at this point. So this is really what we're talking about as off the top of our heads, I think we're going to need, I think this is about flagging things in some ways, not about finalizing, because I'm not in a position to finalize it. There's a lot of material I've taken notes on.

EN

Emily Taylor:	Our final report will be end of April. What we're doing here is triage and trying to identify issues that we need to spend time fact to face resolving.

Kathy Kleiman:	Okay. That said, recommendation one I think we need to clarify. I think everyone agrees to it in general, but there are those who've interpreted it as our defining policy. We'll need to clarify that this is an administrative function and I don't think we have to say anything more than that unless anybody thinks we have to go farther.

Emily Taylor:	Thank you Kathy. Anyone disagree with that? That we don't foresee a PDP with this, this is an administrative not policy making function? James?

James Bladel:	I just wanted to point out that registrars have expressed to me that they are very much supportive of this, they feel like this recommendation is long overdue, at least the ones who have expressed this to me personally. And that if there's any concern, it's that something will either be lost or added in the translation. And so I think anything that we can do to make sure, sanity check or whatever we come up or instruct ICANN to do, to make sure it has to go back and say is this, hold it up to a mirror and say "Is this what you thought was already existing in there" and maybe then reference where they teased it out so it doesn't look like something was added or removed.

Emily Taylor: And perhaps to help that, and bearing in mind some of the comments we got in the last session with the Board, we could either on the face of the recommendation or just in the "findings" box say "we're pretty positive now we've got the policy, it's in chapter three" and then that could be used as a template. I've got Peter, then Bill…okay.

Peter Nettlefold: Actually now that you've mentioned chapter three I'm not sure I have much to add. I was going to remind people again that there's a similar process going on in the ccNSO on their Framework of Interpretation, which is a strange beast in which they've gone and said the policy's not entirely clear when it's not entirely clear what it is. So they've gone through and said "this is policy" and "this isn't," and they're going through line by line, in fact word by word, and saying "here's what this word is," "here's how it's been used in previous decisions" and laying it all out in a very systematic way.

It's an administrative not making new policy so it's some sort of precedent. It probably doesn't need to be quite as, I mean they're really putting a focus on how it's been used and interpreted and so on. But I agree, we wouldn't want anything to be added or lost.

Bill Smith: One thing, a suggestion perhaps and I think it follow on from yours Emily, with the recommendations that we may wan to put, as an example, literally a box, a comment box where we put in the note that we just had there – "we see this as administrative." And to James' point

that it be done and subject to, I don't know the exact phrasing, but reasonable review to make sure nothing is added or lost. As opposed to attempting to craft the recommendation itself, it's a way we could put in some commentary easily about the recommendation from comments we've heard.

Emily Taylor: That's nice. Kathy.

Kathy Kleiman: Another change to one that I don't think is huge, but I've heard it from many places, is that we should clarify that we're talking about GNSO and not IDN, not addresses or ccTLDs. This is a global comment but I've heard it applied specifically to this.

Emily Taylor: Yeah. Thanks for raising that Kathy. Sarmad.

Sarmad Hussein: I think one reason this is being misinterpreted is because of the use of the word "defined" in it. And I think that probably needs to be changed to something else. So what we are actually saying that it is defined, but it is just scattered. But there we are actually saying that it actually needs to be defined which is something else.

Kathy Kleiman: Sarmad how would the word stated strike you; "it's poorly stated"…

Emily Taylor: Well it's stated in the contract.

Sarmad Hussein: Sorry, again I think probably if we go into all the details then we may not be able to go through all the recommendations so that's why I was suggesting that if we can do a high level pass so that at least we know what recommendations to work on.

Emily Taylor: Okay. For now Alice, would you mind just highlighting the word "defined" so then we can remember that we had this conversation? Thank you. Recommendation two – WDRP. My feeling on this is order, I think it just pops out of nowhere into immense detail and it probably sits better under data accuracy. So can we say consider reordering? Anyone else; Kathy?

Kathy Kleiman: Yeah. I think we're looking at the consolidated version here guys, so the template has the full one; these are the condensed form. But the latter part is "If this is unfeasible with the current system the Board should ensure that an alternative effective policy is developed and implemented in consultation with registrars that achieves the objective." We've now heard from the GNSO, from members of the GNSO that they'd like, if we're developing a policy it has to go through the GNSO PDP. So just a note that in consultation – it's going to be with the community or with a PDP; we'll have to expand that.

Emily Taylor: Yeah we're using appropriate processes. I've got…

Kathy Kleiman: Alice, that's a change that we're going to have too.

Emily Taylor: I think everyone just went – at the same time, so in fairness I'm going to go with James, Bill, Peter, Sarmad.

James Bladel: Nothing of substance to add except that this was also a very popular recommendation amongst registrars.

Emily Taylor: Thank you.

James Bladel: They're doing a lot of work here. They want someone to tell them that it's worthwhile.

Emily Taylor: Absolutely. And I hope that the registrar community view this as an opportunity. Bill.

Bill Smith:

Okay. So in the comment area for our recommendation I would suggest that we put in something like "We have heard from various or all constituencies or whatever that this particular policy is painful and perhaps not productive."

Emily Taylor:

Yes. I think we could probably formulate a better finding on this then we've got at the moment. I think it's been, I think it was a bit of a, it fell through the cracks during the drafting process, so we need to formulate the finding of it better. We've got the finding it just needs to be pulled out of somewhere. Peter?

Peter Nettlefold:

A little comment. Just going to agree with people. I'm supportive of reordering it anyway down with accuracy. I'm supportive of having an appropriate finding, as I am with all the recs I think, to sort of clarify where we're coming from. And to follow on from Kathy's comment, this is what I was actually going to comment on initially, is that final wording about the policy and ensure – there's two things there I guess. One is that the way that we've currently worded it is that there is "policy developing consultation with registrars." Probably we need to look at that wording because if there's going to be a GNSO PDP then presumably registrars will be involved.

The second is, and this goes to what we were just talking about with the Board, that the introduction "The Board should ensure that a policy is developed." For those in, maybe the GNSO people can help out here. Is that the best wording? Can the Board actually do that, ensure that an

effective policy is developed that encompasses these things? Is that within its remit? I mean the things we're asking for are high level, so I'm sort of hopeful I guess, but I would seek just some guidance on the wording that we could put in there so that we're not asking the Board to do something it can't under its Bylaws.

Emily Taylor: I agree that the wording of the end of that full recommendation, I thin it can be improved to make it – I think what we're asking for is the Board to appropriate steps and that whatever the process, a PDP or whatever be initiated. It might even be, to be honest, I think that the PDP would be the sort of "If this fails, then do the PDP," because it might be that operational improvements might be made as well. I've got Sarmad, no Kathy did you want to come in? No? Sarmad.

Sarmad Hussein: So just the way this is worded I see it logically conflicting with one of the other recommendations in which we are actually giving a precise number of 50%, where here we are actually keeping it sort of an open-ended. And both are talking about an inaccuracy metric, so I'm not sure whether the two match with each other.

Emily Taylor: Alright, let's just note that, just put a question mark and say "compatibility with" I think it's number five.

Peter Nettlefold:	I guess; so I'll say two things. First, I agree with [Michele], I think this isn't inconsistent with the later accuracy recommendations. This is intended to improve accuracy. It's not intended to be the only thing that we expect them to do, so we expect them to do this, well we're recommending them to do this. I should be more careful with my language. We're recommending that they do this. the intent is clearly that it improve accuracy, but to reach the 50% target they may need to do other things and that's the decision for the Board, what other things they do. So I don't think that they're inconsistent and I think it's probably okay.
	And then I just wanted to check, I mean we've had quite a few comments on this one, I'm still very comfortable with it. Minor wording changes to make sure that we're not suggesting an inappropriate policy thing or doing anything strange to ask the Board to ensure something it can't. But does anyone else – are we sort of comfortable with this one?
Emily Taylor:	Yep. Okay, number three.
Kathy Kleiman:	Number three – ICANN should make WHOIS a strategic priority. I think we've heard a lot of agreement on that. And then should involve allocating sufficient resources through the budget process to ensure that ICANN staff is fully resourced to take a proactive regulatory role. I'll stop on the word "regulatory." This has caused some amount of consternation across the GNSO. Let me suggest some alternate wording that, because of course there is a question – is ICANN a regulator, is it a

quasi-regulator and regulatory definitely implies government authority. Quasi-regulatory, I don't know what it implies.

I think everybody understands the message Emily has delivered so clearly that we're practical. Like it or not ICANN is operating as a regulator. But whether it has that authority, at least in the US, you get regulatory authority through the legislative branch giving you the regulatory authority. So let me suggest that wording like, instead of regulatory might be a proactive contractual enforcement role. Alice, maybe…

Emily Taylor: Just delete regulatory if it's causing problem.

Kathy Kleiman: Okay. Or proactive role.

Emily Taylor: Can't we use self-regulatory just because that doesn't involve any any governmental power or authority, does it?

Kathy Kleiman: The issue is on the table, there we go. Anybody object to playing with some wording like that? Okay.

Susan Kawaguchi: I do not object with that. What I am concerned with is that the description of a senior member of the executive team. So I would, and

I've gotten feedback from the constituencies that this should be the CEO. So it is, that's the only way it's going to be a strategic priority. So I would like to change this to…

Emily Taylor: Guys sorry, sorry, Bill, Seth could I just ask you to have your conversation outside or focus? Thanks. So Susan is proposing that this, that we actually state who we think ought to be responsible. I've got Peter and then Kathy.

Peter Nettlefold: Thanks Susan for, I was interested in commenting on this one too. I actually think I have probably the, though I'm willing to discuss, it's not fully formed thinking. But at the moment I think I have actually the opposite consideration. I'm very interested that as part of having a proactive compliance role that there be appropriate reporting structures and it could be given appropriate priority. And that includes, in terms of the organizational structure and management and so on. I guess I'm a little more hesitant to be prescriptive, so I was actually a little bit – one of the things I was going to raise before you raised this is pointing to having a sort of senior member of the executive pointed to, in general, even if we have – and obviously I'm even more hesitant to point to a specific one of them.

Because it may, for those of you who weren't in the GAC yesterday, this issue came up in the GAC about encouraging the Board to start to look at compliance, and I actually used the WHOISs focus on this as one of the inputs to this, in a best practice way. So I actually think, and Rod's

comments at the time were I think his initial comments were that they had looked at this and saw and then the conversation got broader. I think the position we all got to was that it's probably a slightly longish conversation once we start looking at organizational structures.

A couple of GAC members said that they, including me, had examples of other sorts of entities that deal with the sorts of issues ICANN does in terms of regulating an industry in this sort of way, that it gets kind of complicated. So I'd be personally keener to point to a principle, i.e. that there should be appropriate level of priority, independence, clear reporting lines, and what have you, built into the organizational structure rather than pointing to a particular person.

Emily Taylor: Do you want to respond?

Kathy Kleiman: Yeah, okay. I have been thinking actually of a very senior staff member and wondering if we wanted to specify a senior staff member. Because what I was thinking was some of Emily's beautiful explanation of this were first off, we know that there is no one to contact kind of across the board if you have WHOIS questions, so that's probably a senior staff member who's going to have very clear ideas what compliance is working on and what policy is working on. It seems to me we were looking for kind of an information point of contact.

And then, Emily talked about someone who would help shift resources and priorities in a strategic way. And whereas the Board does big picture strategy, it's senior staff that does kind of the nuts and bolts, the

nitty gritty of strategy. So, if you could throw in there into the mix Alice, a designating a senior staff member. But that poses then questions with the independence because I was seeing – if not, somebody kind really involved in both the nitty gritty and the big picture.

Emily Taylor: Okay, my list is now Susan, James, Bill I had you, Sarmad and then Seth.

Kathy Kleiman: And Michael.

Emily Taylor: Oh sorry. And then Michael.

Susan Kawaguchi: So, my concern with the way its read right now, and changing it to senior staff member, I'm not sure how that changes the wording – senior member of the executive team would be senior staff member in my opinion. But right now, I think ICANN could look at this and go "Yep, we got that," check. And we don't have that. So if we are not more prescriptive they're just going to say "Oh yes we accept that recommendation" and whomever, yeah JJ does that. And so right now there is no one who focuses mainly on WHOIS. There may be somebody in compliance. There may be somebody in technical. But somebody that has the ability to say "Okay to implement all of this and to do what we need to do with the WHOIS and to make it more accurate, we need all of these resources and I am delegating that."

Emily Taylor: And Susan a very important element of what you're saying is that as currently worded we've got "responsible for overseeing WHOIS compliance," which is of course, I think this is something that you've raised a number of times Bill, that limits it. Whereas what you're describing is the entire landscape. And I would propose that we actually meant to delete that word. If we delete "compliance" then we've got a change, because the very last word….does that work for you?   It broadens it in the way that you're describing. Have a think about that Susan, come back if you're…

Susan Kawaguchi: Yeah, I'm still not comfortable with it.

Emily Taylor: Okay. I'm not saying that is the final solution, I'm just saying that reminded me that we were actually talking about it more broadly. So Susan, the current situation, and I've got a nice long queue of people to comment. The current situation is Susan is bidding for more specific, in fact to go for the CEO as having that role. Peter is saying in fact he's drawing back from being specific at all and just saying that he'd be satisfied with something like "clear reporting lines" and maybe a reference to good practice and other models that are out there and to keep an open mind about that. So that's where we are. And of course we have the agreed recommendation, which is our default position. So next I have James, then Bill, Sarmad, Seth, and Michael.

James Bladel: Thank you for recapping where we were because I felt like there was a moving target there for a while and that I'd lost it. So I guess I'm going to come down on Peter's side of the spectrum here a little bit, having just sat through a number of sessions I think yesterday where we discussed whether or not it was appropriate for this function of ICANN to exist in the legal department or the policy department or whatever. And you really, let's see, I want to say this…

One of the things that I think is a bit of feedback that if you read between the lines of the NTIA statement is that policy development and kind of operational things need to be clearly defined and separated. And I think that while we certainly do not want operational concerns driving policy, tail wagging the dog things going on in ICANN, we should probably be mindful of the other thing too, which is passing PDPs and Council votes telling ICANN who they should hire and who they need to work for and things like that. I think that we should probably leave that to the staff to implement and execute.

So I would say here, in this particular thing, try to be as, try to avoid being descriptive. Declare the level or employee without specifics on department or whatever. I think you can possibly even strike the word "senior." I don't know what that means. Senior to me usually means somebody has probably outgrown their current role, but we don't want to move them up to the next one yet, so we call them senior whatever, different within ICANN of course. I don't know.

Emily Taylor: Weren't you just leaving?

James Bladel: Sorry.   So yeah, I don't know what senior means.   I think it means different things to different people. So I think striking that…

Emily Taylor: Sorry, an American member of the executive team would capture what we're after with this?

James Bladel: Absolutely.   I think that being a member of the executive team implies senior.   And I think that that's the layer that we want to target and as far as specific about roles, saying the CEO is responsible for that. I think the CEO is ultimately responsible for all happenings within the organization.   So it's somewhat redundant to say "By the way, you're responsible for this." I think they would turn around and say "Yeah, put it on the list."

Emily Taylor: Can I just sort of make a suggestion given what we're saying?   And also, mindful of the reason why Susan is bringing this concern is a worry that a sort of check box response is a risk here. So therefore we can set this up clearly with our findings that we view this as a change, that we expect to see some action as a result of it and that the current status quo is not acceptable.

James Bladel: Yeah. And so maybe perhaps instead of being prescriptive about the role, the position and the person, we can be specific about the actions and say "We want you to tell the community who is responsible for this" as in what their major job is. We're expecting that when different staff and things like that give reports to Boards and Councils and SOs and ACs that this is included in those reports. And then I think it becomes less concerning who's giving that and just more that it's happening on a regular basis.

Emily Taylor: I've got Bill and then Sarmad, Seth, Michael.

Bill Smith: Okay. So, I'm relatively happy with the language of the recommendation. I agree with the striking of senior and especially the last word of compliance, because for me it is a much broader role. And on the call with ICANN senior staff I was very concerned that from some of the general comments I was hearing that they would say "Okay tick, we have that; we have somebody senior who is looking at, who is responsible for WHOIS compliance." And that's now what we're asking for, I don't believe. I think we could; so I'd be happy with those two changes, and then place in the description, the box perhaps that we don't believe that this role exists and that through further review we've heard that there may be other mechanisms to do this.

We don't want to be too prescriptive, but whoever takes this role on must be basically at the level of an executive in a corporation. So in the US that's, I hate to use the term, but senior director basically, vice-

president. It's not a vice-president at your local bank, your branch. Because you go into a branch and everybody there is a vice-president. But I think we want to convey, and I think we do agree on this, is that it is a role broader than compliance, looking at all of the aspects of WHOIS, and it needs to be somebody with responsibility for it and authority to do something. The authority has to be granted to them, but it can't be the current group, in my opinion.

Emily Taylor: Sorry, I was off mic for that. Sarmad.

Kathy Kleiman: Just a quick question. I was asking Alice at some point to give us the full text, we're going to need the full text; especially as we go into data accuracy. That's what the whispering was about.

Emily Taylor: Yeah. I think that the format we have at the moment, we've got the full text in front of us, is helpful just on our triage run through, so let's stay where we are. Sarmad.

Sarmad Hussein: So I want to second the discussion we're having. So reading through this, the two messages about this recommendation which I'm getting, is this recommendation about giving WHOIS a strategic priority or is this recommendation about compliance? This actually reads as a compliance recommendation where we are actually intending a strategic priority where includes not only budgets for compliance but

budgets for many other things including improving the WHOIS policy, engaging with the communities.

So if it's a strategic priority recommendation, then we can perhaps separate out the compliance recommendation and bring in wording which is more generic and covering other aspects of strategic priority as well. Compliance being just one part of it but there's much more to it.

Emily Taylor: That's a very interesting thought. So what you're saying is we've actually got two recommendations in one here. The strategic priority is the bit that kind of covers with it the senior member, sorry, the executive role. And then we've got a lot to say, we've also got an "and you've got to improve the effectiveness and resourcing of compliance as well." So we're more or less reordering the words that we've got, but we might as well create a separate one on that. See you later Bill. Seth?

Seth Reiss: I think one takeaway from the meeting with the Board is that this recommendation may be our most important one, and I think that's what we need to communicate in this recommendation. I don't think we can sound prescriptive but we are not prescriptive. So I think just figuring out how to communicate how important we feel it is, and it can't be treated trivially. I'm going to come down on the side of I think Peter and James that we, it is not our job to decide who is the most appropriate person. The Board has to juggle many considerations, this

is not the only important thing in front of them. And so I think we'd be doing a disservice to suggest a person.

And I don't know if we might consider language like "an appropriately experienced and authoritative member," something of that nature. To indicate clearly that we think it should be an important member, but not telling them where the member is going to from.

Emily Taylor: Okay. I like this. I like where this is going. We've had some discussions and I sensed everyone was pretty comfortable going up top as the first recommendation, so can we take a note that this will be the first one or two, if that's how it ends up? I've got Michael then Peter, Sarmad you wanted to come in, Susan do you want the mic, yeah?

Michael: Well colleagues have already talked about most of what I wanted to express. So yes, I do agree with Sarmad that there are mostly two different recommendations. And I also would like to remind that there were questions if we put it as a priority, so what should be a less, of less priority to ICANN yes? And I also agree with Kathy, with Bill that, well for me such a recommendation is about the responsible person within ICANN staff. So if such a person appears, then at least it will also demonstrate that there is such a priority. For example, there are a lot of roles where there is no priority for ICANN. Someone can do it like an outsource etc.

But this is exactly should be a priority in the way that if there is a question, if there is an issue we should understand who is the senior

ICANN staff who is responsible to solve such issue. So if we are able to reword such a recommendation in such way, for me it would be enough, even without the first part of this recommendation. However, I would agree that there are two important recommendations. It's better if we keep them as they are, but with a rewording to make it much as clear as possible.

Emily Taylor: Thank you Michael.   Peter then Sarmad and Susan.

Peter Nettlefold: Well thank you everyone for all those comments, because again like Michael, it makes it a bit easy. So maybe I'll just try and summarize where I think we might be at and see if I'm wrong. So, if there are two different recommendations, the first being that it's a strategic priority and that is linked to the last part of our current recommendation, which is ensuring that we have someone in charge of it who is appropriately senior and authoritative and experienced and so on. And then the second recommendation would be about compliance, which would in effect compliment a lot of the stuff which were talked about contracts being enforceable and so on. So it's almost in some ways a part of that, but I'm not sure if it might be linked to other things as well.

So we have a recommendation on priority and a separate recommendation which deals with ICANNs compliance function being appropriately resourced, taking a proactive role, ensuring a culture of compliance and some things around that. And if that's where we are at I support it, and I actually think that it will make it a little bit easier for

us. And I think it's very good that you've actually helped pull these two things apart Sarmad because I think the thing in which Bill has pointed out, like if each of those is accompanied by some reasons I think the set up for each of those will be simpler. It will be much clearer why we're recommending each of those two things.

So, someone needs to be responsible for WHOIS overall in terms of overseeing it, a single point of contact, knowing what's going on, etc, etc. And then a well resourced proactive compliance function is slightly different, it overlaps, but it's a different thing. And the reason we want that is because enforcing the contracts, which we talk about so much in our recommendations is an important part of the picture. So I think thank you for suggesting pulling them apart. I think it will make it much easier.

Emily Taylor: Sarmad.

Sarmad Hussein: So a couple of things. First, then it also clarifies what kind of role of senior executive we want from ICANN. Because now if we are saying the person is going to be looking at policy and budget and compliance and those roles, so the person has to be senior enough to be above all those levels. And so if you can spell those out, I think that sort of adds more meaning to what we mean by senior. And the compliance part then actually has – the reason we want to emphasize that is because that is actually going to have a direct impact on accuracy of data. So that part can go into the accuracy section.

Susan Kawaguchi: So I do think we're getting to something here. I especially appreciate the fact that you have pulled these, recommended two recommendations out of this. And also sort of grasping the point that if we sort of outline what we're expecting this person to be able to handle or manage, or the role would include all of those, does indicate it would be an executive. I'm still really concerned that unless we're a little bit more detailed that they're going to check the box and we still will not have any improvement. So I mean what I'd like to do, really if I ruled the world – who's that, Barry Shine or something – would be to tie all of WHOIS and all of the recommendations that we're making to the CEO as compensation. It's like if the WHOIS is not improved, the accuracy does not improve, then therefore he does not get his bonus. I mean that would be the ultimate for me.

And yes, the CEO is responsible for everything in ICANN, but we've seen what's happened in the last 10, 15 years. It's like "Oh I can't really do anything about it. Oh the community has to decide." Well, there's all kinds of things that ICANN – we've noticed, we've seen that in our findings – ICANN could have been doing so much more and has not, so I just want to hold – I think this is one of our most important recommendations and I want to make sure we get the wording right so that our most important recommendation isn't checked off and said "Yep we're done with that one, okay move on." And maybe we can't decide this today.

Emily Taylor:	That echoes the comments of the IPC, which we have there. "We recommend that the senior executive be CEO. The fulfillment of data accuracy objectives should be a major factor in performance evaluations and bonuses decisions in this office." If we might, we could add that bit – I mean it's actually not just the CEO is it? It's anybody with responsibility, this within their purview, that we could add that into our data accuracy recommendations perhaps as an alternative. Kathy?
Kathy Kleiman:	I'm going to make a procedural recommendation. That Emily, when you and I were outlining today, we thought maybe let's hit the easy stuff first and flag what seems to be more difficult. I sense, and I think we all sense, that this is a very important issue for Susan. I think we're going to get to a few of these issues along the way, and I don't think there are very many of them where some of us are going to feel very passionate about a change that needs to be made.
	I think our job here today is to find those moments and then maybe task a few people to go out and tease them out and come back. I don't think we should be doing that here now. I think our job is to go through, pull the easy stuff out, and then get back in and work on, in writing, not necessarily in the teleconferences because we won't all be on them. But yeah, I can see this is very, very meaningful to Susan. But also you should know I made a promise to James that while he was in the room we might get to some of the proxy privacy, so rather than asking him to express it. We pulled him out of other meetings and I said maybe, hopefully we could prioritize there. So, just some thoughts.

Emily Taylor:	Alright. You wanted the mic?

Peter Nettlefold:	Yeah look, just really quickly. I entirely agree with Kathy on everything except one bit. I actually feel we probably all agree on this and it's just wording. I think in principle I haven't heard anyone say this isn't an important recommendation, that we don't think it should be a strategic priority, that compliance is not important. We're just talking about the best way to get there. Whereas on privacy/proxy, maybe it will be a different story. So on this one I think we all really agree, so I expect it's a wording thing and probably right, it is best just taken offline.

Emily Taylor:	Well shall we park that there? I think that was a really, really useful discussion and we've made some very important progress on that. Okay, I'd like to take you up on your suggestion Kathy and take this a little bit out of order and go to recommendation privacy and proxies.

Kathy Kleiman:	Do we want to skip data accuracy or straight to privacy/proxy?

Emily Taylor:	I thought you were asking for that?

Kathy Kleiman:	No, no. I'm asking – actually let's ask James and Peter, what would…

Emily Taylor: What's your top of the pops guys?

James Bladel: I came a little early, so please don't adjust the agenda just on my account.

[background conversation]

James Bladel: I'm hearing rumblings. Well let's hear it. Let's go to that then.

Kathy Kleiman: Okay. On data accuracy?

Peter Nettlefold: Maybe before we go to the proposed language we just recap, because James didn't have the benefit of being here yesterday. Just briefly on the thinking, I'll try and remember everything. I think I can remember what I said, but there was a couple of other points as well. So, I've certainly had some feedback on the privacy/proxy recommendations and they circle around two things, and one of them is, for me, it's not clear why we're taking such a different approach to the two.

So at a very high level summary, privacy at the moment we're suggesting what is essentially a mandatory approach and with proxy it is do a study and have a voluntary approach. And then see whether that works and maybe we do a mandatory approach later if needed. A

number of people have said to me, given that privacy services – well they've said two things to me – it's not clear why you've made this distinction so hard and fast. If privacy services mean that the persons name will be available and only some of their other data will be limited, and it's going to be more regulated than proxies, in practice it simply won't be used. Everyone will go for a proxy, it will be less regulated and the whole data will be limited.

So there's that practical consideration in that if we do it this way, people think it simply won't be used. And the other consideration is – well personally, I don't see why we would be softer on proxies they we are on privacy services, given that again, privacy services limit the entire identity of the registrant, whereas a proxy service would. So my simple recommendation yesterday was, unless we have a very real reason for maintaining the distinction, that we essentially collapse them and treat them both in the same way as we are currently proposing to do to privacy services. I know Seth's got some additional comments, but that's by way of background.

Emily Taylor: Yep. Thank you very much for that Peter, that's a useful reminder. Seth, you wanted to add something?

Seth Reiss: Yeah, and again just by way of background. I think we had distinguished the two because we saw them as serving different interests and that's explained in the report. On the other hand, almost all the comments we've gotten back, the people commenting that don't appear to

appreciate the distinction, to the extent that if we maintain our distinction they're not going to get it. So I think even though I was in favor of the distinction because I thought they could be treated differently based on the different interests being served, although I was not entirely comfortable with part of the proxy recommendations, I think that if we want to be practical we have to address it the way that the community seems to insist they want to treat it.

Emily Taylor: Okay. Well let's have a go at this then. I've got Kathy, Sarmad, James – let's always bear in mind that this language was very hard for us to find agreement on. And so that is our default. If we leave here still feeling like we're nowhere on agreement, that's what we go back to, despite it's manifest imperfections. It's clearly not what any individual would write, but it's what we could all sign up to. So with that, can I go to Kathy, Sarmad and then James?

Kathy Kleiman: I'll go – I have some other comments later, but this one is just a wordsmithing one. Not wordsmithing but in some other areas too that I found a theme that when we presented our findings and then our recommendations they got it. And so a number of people came up to me, and this was one area where they said "Could you please take some of the words in your findings and put them in your recommendations," because you have a number of people going straight to the recommendations to read them all through and they're not doing the back and forth.

So here the recommendation is to put the definition of privacy service into privacy service, proxy into proxy, if we combine them we combine them, but put those definitions into the text of the recommendation. And you'll hear this as a theme, I've got this in other areas. Nobody reads footnotes except lawyers.

Emily Taylor: Yeah. Look guys, yeah this is exactly what I'm talking about here.

Kathy Kleiman: It's not in the privacy, the footnotes aren't till proxy.

Susan Kawaguchi: That's true.

Kathy Kleiman: A "privacy service provider" people said what are you talking about; we've got to define this.

Emily Taylor: Okay, so just a reminder, in the new format, in the new world that will be the final report, this will flow after our findings on privacy and proxy, so we will have made the point about them being separate services unless we go with Peter's suggestion.

Kathy Kleiman: The recommendation is actually to include the definitions in the recommendations. Because eventually even the findings will dissipate, so whatever assumptions we're working on…

Emily Taylor: I think we'll bear that in mind. You can go to such a level of detail including everything in the recommendations that you end up with an intractable thing and so then it will end up getting lost anyway as they get condensed. So let's bear that in mind, but let's not take that too literally would be my steer. Sarmad and then James.

Sarmad Hussein: The reason we had two different levels was, at least the way I understand it, is because for proxy there is additional level of – actually for privacy there's an additional level of interaction where the user is registrant specified but their address is not. And in case of proxies we are saying actually the proxy service is the registrant itself. So I'm not sure legally it is possible, whereas for privacy services, the people who are providing the address are not legally responsible, they're actually providing the address for communicative purposes. So I'm not sure whether it's possible to treat both at the same level.

Emily Taylor: Yeah. Can I just sort of give you a clarification on that? Legally and in theory, which is where I think we were drafting this from mainly, you're right. In practice however, people do approach proxies and ask for the reveal in just the same way as they do with privacy services. So in

practice people, there isn't the additional level of interaction in one and not in the other, practice they're the same. Sarmad.

Sarmad Hussein: But one significant difference is the person, the registrant name is different for proxy versus privacy. And for privacy you know who the owner is, but you have an indirect way of communicating with the person. Whereas for proxy, actually the persons information which is given is actually the registrant owner. They may be doing it on behalf of somebody else at the back through some legal contracts, but the owner is there and it's very clearly communicated and specified.   So it's perhaps one could be a little, in a way of distinction one could be a little more liberal with proxy as is actually given in the recommendations. In any case, they don't need to be at the same level.

Emily Taylor: Thank you Sarmad. James.

James Bladel: Thanks Kathy and I appreciate everyone for giving me enough background to get caught up to speed here. As I mentioned at the outset of this San Jose meeting, I'm very unlikely to be able to attend most of the RT4 sessions, so I appreciate you getting me up to speed. So I just wanted to offer some thoughts on this and recognizing that this was a long, hard struggled and fragile consensus position that we arrived at and not just in this group, but I remember a number of late night telephone calls with just Susan and I working out some of details

of the language and things. So we need to be very careful when we start to go back at this thing with a steak knife and start picking at it.

Some of the thoughts, first off, these recommendations – and perhaps we should start with I don't know that we have done a very good job of making the distinction clear between privacy and proxy services. Based on the feedback that we're getting it seems like the reading between the lines there is we have more work to do in our definitions and drawing those distinctions. These recommendations reflect, I think, not what we – we – want, but really reflect more about reality, in that a privacy service is affiliated with a contracted party and a proxy service is not.

One is inside the ICANN umbrella and one is not. One ICANN can take action and do things against and the other is not. So I think that was a distinction that we danced around perhaps, or danced around a handbag – by the way, thank you for the handbag comment to the registrars. That's now my new nickname or something, so I appreciate that. So I think that we need to be very careful. The second bit that I wanted to put out there was that – what I mean by this is when we talk about proxy services and we talk about what we're really talking about is what registrants can do with domain names, with domain name registrations.

Now for example there are a number of people, a number of interests within the community that do not like or support the domain name aftermarket. There are some country codes that have taken steps to eliminate domain name aftermarkets. But there's another example of something that exists outside of the ICANN umbrella that whether I like

it or not it's happening. And I think that to try and extend ICANN into an area where it has no contractual remit is problematic. You know, where is the authority? Where does ICANN get; where's this coming from?

And then finally I wanted to point out that I think a number of folks have said why are we treating them differently and I think we said it's kind of a practical necessity in some respects, but also, that registrars, particularly those who are affiliated with privacy services and not proxy services, have thrown up a red flag on this particular recommendation and said essentially this can't go. This has to go through a PDP or we're just going to convert all the privacy services to proxy services. Because you've basically shown us the way here, that this market, the one that is requiring that personal information be put in a public database is just not going to fly with our customers.

So I'm just putting out here what I'm hearing back as well, and I think that some of this is reflected in a motion that will come before the GNSO today, which is very interesting, talking about Thick WHOIS. Converting all of the Thin WHOIS databases to Thick. There is a countermotion being proposed the Thick registries be given the option to convert to thin. And why not? You know. It's working for [common.net], why should the others have this additional operational and anti-competitive burden?

So I mean, I think we need to be very, very careful when we start pulling at the threads on this one. I know it's not, and no one is comfortable with it and I think that's usually the sign that we're getting somewhere. But my understanding of the distinction of the two was that we recognized that one was in the yard and one was outside the fence.

One was subject to the rules of the game and one was really a private actor. And that that was really what was driving the two separate recommendations. And I really don't know what to do with the feedback from the registrars on the privacy services.

Emily Taylor: Could I just on that, before I go to you Peter and then Seth, and Kathy – does anyone think that this doesn't require a PDP? Because I was just assuming that there's going to have to, this is basically saying "Here is the problem. There is no policy. We've got to start work here." So does anybody think…

James Bladel: Do you mean for one or both?

Emily Taylor: Both I think. Do you think privacy needs…

James Bladel: I thought of one.

Emily Taylor: Okay then. I don't think I thought of it in the way that you clearly set it out just now actually, to be honest. So proxies, we think it needs a PDP right?

Kathy Kleiman: Yeah.

James Bladel: Well a PDP would not be applicable to a proxy service.

Emily Taylor: So what do you do then?

[background conversation]

Emily Taylor: Okay, Peter and then Seth and then Omar.

Peter Nettlefold: So yeah, look, thanks James. That's really useful. Particularly the feedback from registrars because that's pretty much exactly one of the concerns I laid out. The way it currently is I totally expect everyone will transfer to proxy services. And the effect we will have will be that there will be no privacy services and that everyone will be in proxy service, which all we're suggesting is that there be a voluntary scheme. So in effect maybe there will be something, but I am very nervous our effect will be zero. And in fact, could be worse then zero in the current situation.

And then to go to your point, I would sincerely like your response because it's not clear to me at all that one is in fact in the fence and one is without. It seems clear to me that there are in fact some proxy services affiliated with registrars at the moment. I think GoDaddy has one right, Domains by Proxy, within the fence. It's not clear to me why

the fundamental assertion from your comment was that one's in and one's out. I don't understand why.

I completely acknowledge, and this was one of the key discussions we had in Dakar was that we're not going to know about every proxy provider. We can't and we need to acknowledge that as our starting point. And I think that's perhaps one of the reasons we had the two points that we were discussing in such detail in Dakar. But that doesn't mean that the commercial proxy service providers are any different than the privacy service providers that we seem to feel perfectly comfortable having some kind of scheme on. So maybe if you could clarify that for me that would be great.

James Bladel: Sure. And I think probably the better word then "affiliated" would be "co-owned." They're under a common ownership, Domains by Proxy and GoDaddy and that's probably a similar relationship. And so as an example we also own various aftermarket businesses.

Peter Nettlefold: …a fundamental distinction. Is there a clear demarcation across the industry as you've suggested that privacy services are only associated with registrars and proxy services are not?

James Bladel: No and I think that what we were trying to do in our recommendations is draw that clear distinction and say "Privacy services are accredited registrars" that distinct entity, the accredited entity, "That has a

contract with ICANN is modifying the WHOIS data as a service." Whereas a proxy is not affiliated with ICANN, maybe co-owned by a registrar but doesn't have to be, could be a complete third party as we discussed. Could be a law firm; is also a common implementation of a proxy service that is registering a domain name, giving their own contact information. But the beneficial user is another party, or another entity and there is no contract between that entity that is doing that initial registration and ICANN.

Peter Nettlefold: I still don't understand the basis for the distinction. You're saying we said that a privacy service must be affiliated with a registrar, I don't understand why we can't say the same for a proxy. Maybe I'm missing something.

Emily Taylor: So in my queue is Seth, Omar, Susan, Wilfried – I've lost Kathy. Shall I pop you in after Seth? Okay. Is that okay Omar? Seth.

Seth Reiss: I have similar questions for James. And Susan and I were talking about this last night, we're not really sure what's under the ICANN umbrella and what is not. And I'm not sure why proxies aren't and privacy services are, other than that they've grown up that way. In other words, what if a private entity unaffiliated with a registrar were to create a privacy service? I'm not sure they couldn't although maybe they would run into obstacles.

Anyway, we were thinking about this and I guess the conclusion I came to, and these are my suggestions – Susan saw them but (inaudible). Because I saw…

Emily Taylor: It's broken.

[background conversation]

Seth Reiss: So given what my perception that the community didn't seem prepared to separate them out, what I did was I took our privacy suggestions and duplicated them or just comingled them with proxy, but realizing that some of these services, whether it be proxy or privacy and James has informed us that they're mostly proxy, or they're all proxy, are outside the scope of regulation and that just won't work. And I'm very sympathetic to the concern that "Why should the regulated be burdened and the unregulated not." So the suggestion here is if we're going to make this work, and it is going to be a leap and it probably will certainly require a PDP, we have to get everybody under our umbrella.

I don't see how we cause authentic records to appear if we can't get everybody under our umbrella. So here the suggestion is that they take a further step and say "If you are regulated you can provide the service. If you're not regulated you have to come in and accept regulation." So this is a possible discussion model for that.

Emily Taylor: Okay, Kathy.

James Bladel: Just a quick response or? We're facing a fundamental challenge here which is a party that exists outside of ICANN can disregard ICANN. How is that…

Emily Taylor: Sorry, can I just pop in on this. you have the same logical distinction between resellers and registrars don't you? Many resellers are not in the ICANN umbrella. And you also have the fundamental distinction between any – you can't absolve yourself from contractual responsibility by subcontracting can you?

James Bladel: No but there's some important differences here Emily, which is that registrars have said if there are resellers, the registrar of record is ultimately responsible. They cannot delegate, as you were saying. Proxy services are not resellers. They are registrants. They are end users. They are doing things as their own business that is putting them in contact with other end users. Maybe they're offering, for example, blogger.com has many numbers of customers that they are then offering services under.

So I get into a very strange place here where we're saying that we can't link them to registrars, we can't link them to resellers, they're registrants.

Emily Taylor: I think that – perhaps this is where I understood Susan as coming from is that while that might be logically true, in reality, if you just take the example of GoDaddy and your affiliated service there, you are actually guiding your customers through that service as part of the transaction of registration. You're offering it at the point of registration. It is clearly part and parcel of your service. There may be differences in ownership.

But I think this is probably the reason why, while you're making very logical and cogent statements, I don't feel that you're convincing the room on this. Because in fact, the reality is that the large proxy providers are part and parcel of many accredited. And that being so, registrars should not be able to absolve themselves of responsibility, in my own personal view, by saying this doesn't belong to us because it doesn't sound right.

We've trashed the queue. I've got Kathy and Omar and Susan.

Susan Kawaguchi: I know but I think you're misunderstanding my view point.

Emily Taylor: Okay fine, apologies then.

Susan Kawaguchi: I am willing to look at this again, because Peter brought this up.

Emily Taylor: Thank you for that clarification and apologies if I misunderstood. Kathy.

Kathy Kleiman:

Three things come to my mind as I look at this. One is that we've been applauded in ever forum we were in for being the first to take on the proxy/privacy issue. We haven't done it fully. We haven't done it perfectly. We haven't done it well. But everyone said we've moved the ball down the road because we're dealing with it. And I think that's something important to think about.

Something else that comes to mind is our always saying we were a review team and not a policy making body. Already in the details of what we're doing we're going down that line and I'll talk about that a little more. So I'm concerned about going even farther down the line into policy making. But the other thing that comes, and we haven't talked about it the last few days, which is what we all agreed at the outset. That we weren't going to make recommendations without underlying fact finding. And we continue to come back to this area, we didn't do a lot of fact finding. We issued a question but we didn't have studies, we didn't go out – this is really kind of a murky area of ICANN.

And as we continue to push on things I think we're going beyond our scope of knowledge and our scope of study and research and survey. I'm happy that we've moved he ball down the road. I do see two categories. I see one that's mandatory with privacy services and god knows we better put the definition into the recommendation so people know what we're talking about. I see another on proxy services where I seem to recall we agreed you would never know exactly who a proxy server is. Sure Domain by Proxy, but also I register for my mother or my brother registers for me or attorneys register.

So but big picture in mind let's kick the ball down the road and we have been applauded on that.

Emily Taylor: Yes. Thank you for that reminder Kathy. Omar then Susan, Wilfried, Peter.

Omar Kaminski: On recommendations 10 and 14, we should broaden the second line. "Service is consistent with national laws, conventions and treaties," also or perhaps the United Nations Declaration of Human Rights" – second line, 10 and 14.

Kathy Kleiman: This is 10 and 14, proxy services and privacy services. Everybody see where that is? First line of both 10 and 14 I think. Could you read that again Omar?

Omar Kaminski: Okay on 10 and 14 the second line – "Consistent with national laws, conventions and treaties, and also the Declaration of Human Rights." We should broaden it.

Kathy Kleiman: Why?

Omar Kaminski: Why? We should broaden it because national laws could apply perhaps only for ccTLDs. We can mention the conventional cyber crime or the Budapest convention on cyber crime for example. But I don't think it's good to specify. So we should amplify this concept.

[background conversation]

Omar Kaminski: Both privacy and proxy, 10 and 14.

Emily Taylor: Susan?

Susan Kawaguchi: I would absolutely love to rule the world and make proxies do what I say they should do or outlaw them completely. I just don't think it's feasible. So I'm willing to support some changes, but this – maybe we haven't done studies. We haven't done studies on a whole lot of issues we've looked at. But we've given this a lot of thought. Or at least I have. And I have a lot of experience with proxy services and privacy services and they don't work, except for the few exceptions.

So I am comfortable with the existing recommendations we made. I agree the definition should be in them, we could do some wordsmithing maybe. And James the reason that "affiliated" was used in that, if you remember, that was pulled from the RAA because the definition of "affiliated registrar" is under a common controlling interest. So maybe

we change that into "a common controlling interest" in the language, but because I'm not sure co-owned is, that could be not very well defined in my opinion. So there's a lot of trepidation here to change this, though I'm willing to work on it and be part of that discussion.

Emily Taylor: Thank you for that statement Susan. I've got Wilfried and then Peter.

Wilfried Woeber: Yea just one little thing to the logistics. I have formally been released by the ASO Chair to go back to this room, and I'm grateful for being able to do that. So I will stay here for the rest of the afternoon. Secondly, please bear with me as I'm missing some of the previous discussions, so my comments might be out of sync.

A more general comment, looking at the feedback we got from various parties, both personally as well as formally in the meetings, I think we need to be specific either in the introduction or in the management summary, or in what other prominent place, that some of the recommendations that we, as a review team issuing those recommendations, we acknowledge the fact that implementation of some of them will require PDP activity one way or another. I think this will take out quite a bit of a potential for misunderstanding. That's just sort of a suggestion. And we can probably look at the draft document and find the proper place to put it.

The next thing is to come back to the discussion regarding proxy and privacy. My personal perception is it's a non-issue whether we are inside the fence or outside the fence because we are looking at the

same thing. We are looking at registrations for domain names and we are looking at the registration data for those domain names. Whoever, whatever organization actually performs that action I think is irrelevant. Whether it's an entity which is ICANN affiliated or contracted or whatever, or whether it's me as a private citizen. I think it doesn't make any difference regarding the requirements.

And coming back to the discussion and sort of our questioning each other. Why are we making a difference? If I remember correctly, and I think this still stands, there is one fundamental difference between the two. In the proxy situation we have an unbroken chain of responsibility. Because the registrant, the proxy service provider is actually taking all the risks and all the rights in the use of this domain. We have it somewhere even spelled out in the document I think.

With the privacy service we do have this gap because intrinsically the privacy service at the moment seems to be deployed to actually break that chain. To make it impossible or at least very difficult to find to who is the responsible party. So if you look at the whole thing as a tree structure, sort of there is an additional leg and an additional node in the privacy service, which is not present in the proxy service. And we might want sort of to explain that somehow, or to make this distinction obvious, assuming that you agree with my interpretation.

Emily Taylor: Thank you Wilfried. Peter. I don't see anyone else asking for the mic. Okay.

Susan Kawaguchi: So, there is no clear language anywhere in ICANN that I've seen, and maybe you can point that out to me, but I would use that in a hot second to make a proxy service responsible for a domain name. In the RAA it specifically says you need to reveal – or not reveal. I'm going to murder the language. But there is language in the RAA talking about a proxy service provider or a registrar providing the contact information. So if you look at the litigation around the world, a proxy service provider has not been held responsible for the content in most cases. So we cannot rely on that. So we do need something, but I do feel that they're out of the fence. And I can't believe I'm arguing your side of this James, but.

Emily Taylor: Yeah kudos on the brain transplant James, for Susan.

Susan Kawaguchi: It's that malaria pill still working. So I do not want this to go in the direction of back where we were before in Dakar, where we have absolutely, we're silent on proxies because then we've let the community down.

Emily Taylor: Thank you. In my queue I've got Seth, Kathy, James I saw you – did you want to come back specifically on that point with the clarification?

James Bladel: Yes specifically I would say that they're not responsible if they are demonstrated to have done the right thing and shown that they are

responsive to requests. If they're a shaky organization that doesn't, then they have a little bit of trouble evading that sort of responsibility. And then the other bit was something you had said just before that, before you made us all laugh. I can't remember what it was. Oh I don't know if it's in the RAA. I think the section you're referring to, and I'm just shooting from memory, might be in the UDRP, which says that if the registrant receives the complaint, the respondent or something has a certain amount of time to correct…

Susan Kawaguchi: It's the RAA.

James Bladel: Okay. There's something in the UDRP as well that says something like "if you received a UDRP but you believe that it's directed more appropriately at someone, the infringer is not that person, you have a certain amount of time to correct that and say "No, here's the person you actually want" and then that's kind of reveal sort of thing. Okay.

Susan Kawaguchi: Yeah that's there too, in the RAA.

James Bladel: Okay, I'll take a look, but yeah.

Emily Taylor: Thanks James, that's helpful. Seth, shall I go to Kathy and then come to you Peter?

Seth Reiss:	So this responds to Wilfried, Susan and James. The UDRP of course gives rights to a known civil liability, so it's not a remedy for people in Susan's position that have been harmed. In other words, the most you can do is get the transfer of the domain name, so it doesn't provide that. You indicated that the proxy would be responsible if they didn't do the right thing. Is that coming from an RAA provision?
James Bladel:	No, and I think Susan and I are shooting here from the hip a little bit about some things in cases that we've seen.
Seth Reiss:	Okay. I personally agree with Wilfried that is a proxy is responsible that should be a remedy. Susan has indicated anecdotally that hasn't worked. I'm very uncomfortable with the "voluntary" language because I think that just feeds the "doesn't work," that you're just letting proxies off the hook all the more so because courts and others will look to that language and say "Well you wouldn't have put that language in there if you had intended to hold proxies responsible." But I think we are where we're at. We have the realities that Susan and James have explained to us, simply saying "proxies are responsible" hasn't worked. So I will respect the real-life experience, but I'm still uncomfortable with the solution.

Kathy Kleiman: Hey, going back to what I was doing before. I want to separate out the issues that I've heard that don't seem to be controversial, and double check that they're not controversial, and we'll call them "things we can do as drafting issues later." So obviously we've got a core of something that's very – I don't want to use controversial – of which people feel passionately. Let me take that one out. can you tell me if the following things are controversial? One – putting in definitions in recommendations 10 and 11 for privacy services and privacy service providers, which are in 11 – putting it in the recommendation, just taking it out of the report and putting it in.

Two – that the proxy service recommendations 10 and 11 go to a PDP, and we will draft that accordingly, a GNSO PDP. We're assuming that this will go into that and that what we're trying to do is create some framework, and James maybe you can help us with the language, of what would be in the PDP. But I think we all agree on that right?

Emily Taylor: I'm not sure that we do.

Kathy Kleiman: That privacy services, that to create the rules for privacy service relay and reveal – that would go in through a policy development process? I thought we agreed?

James Bladel: Yeah that part, yeah.

Kathy Kleiman: Okay. So I'm just saying that's one of the things I've been asked to clarify. Three – Omar has asked for an expansion of the language in both privacy and proxy services, that "ICANN should develop and manage a system of clear, consistent, enforceable requirements for all privacy services or proxy services consistent with national laws, conventions, treaties and the UN Declaration of Human Rights." Is that fairly uncontroversial? Can we put that in?

Emily Taylor: I think it's redundant, and if it's not redundant, then you're imposing compliance with the Declaration of Human Rights to countries that haven't actually adopted it. And I just don't think we can go there.

[background conversation]

Emily Taylor: Well, I think it's redundant because it's either in national law or not. I don't think that we can attempt to tie the hands of sovereign countries, and we had this huge debate in Dakar about it.

Male: How about national laws including (inaudible) and international obligations (inaudible)?

Kathy Kleiman: What's going to happen is cross-border reveal requests. So Syria goes to me in the United States at .org and says "Reveal X organization."

We've been asked by both intellectual property people and by non-commercial, this is passionate, let me flag this, this is huge. That we've been asked to make sure that we go beyond national law to some recognition to international norms, even Interpol does this guys, international laws on Human Rights. I am flagging this, it will take us a long, long time.

And I know what you said Emily, but I also know, my recollection is not that we had a huge fight about it, but that we agreed on the principle. That we were looking at national laws but also as international norms and values of human rights, because we're talking about privacy. And that we just couldn't find the right words, and lord knows, I couldn't find the right words. And so here we've got some really good wording that Omar has introduced and I think again, it moves the ball down a little bit and gives guidance to the policy people on what to consider. And that's all we're doing, is guidance to the policy people on what to consider.

Emily Taylor: Seth. I'm not going to do wordsmithing on this, but if you want to come up with some words, I'm very happy to. What we've done is though, I did have a queue on proxy and privacy, which is Peter and James, and what I'd like to do is go through that queue and then have a short break where we can eat our lunch and just have a break. Yes exactly. Peter, James.

Peter Nettlefold: Yeah look, I'm not sure I've got much to add to be honest from here. It might be that we chat over lunch. To echoes Seth's comments, I'm like, the way that it currently stands I'm increasingly uncomfortable. And to be honest, the more that we discuss it here the more uncomfortable I become. I think I've got clarification of my fear now that what we're actually doing will be not having a privacy market. That in fact all the registrars will shift their customers to proxies. The proxy system doesn't seem very clear. It seems to me by adding voluntary requirements we'll be making it more unclear. And the fact that some of the voluntary requirements include proxy service providers may provide full contact details as required by WHOIS – may – just makes me even more concerned.

Emily Taylor: James.

James Bladel: So I guess I'm in agreement with Peter that I was, I'm growing increasingly uncomfortable with this. I wasn't thrilled with the status quo, but now that we've, it seems like we've collectively agreed to blow that up, then we need to take a hard look at these two – the distinction, the definition. Whether that's still operative. And whether or not it's within the remit of this particular group to even wade into this area, and whether any recommendations or findings from the WHOIS Review Team can be applicable to this industry. So that's kind of where I'm kind of landing.

Emily Taylor: Can I just clarify one thing James, which is, the white line around the football pitch for this particular conversation is if we can't decide and do better, we fallback to what we agreed in our original draft report, which we've all signed up to. And I think that you've put it very well by saying we all feel uncomfortable with this, and to a greater or lesser extent we all do feel uncomfortable with it. We don't think that we've nailed this or had the final word on it. But this is what we could sign up to and agree with, and I do not want to blow up a consensus that we had.

James Bladel: But what I'm hearing Peter saying, and what I'm hearing is that the people that sent us here are saying "you should have never really bought off on this." I don't know. I'm hearing that there's feedback that…maybe with respect to proxies from where Peter is coming from and privacy services to where I'm coming from is kind of, "We love what you've done. Great work RT4. Really tackled this beast, you've slain this dragon; except for this. We just can't swallow this part." And I think that we're hearing that from our groups, our constituencies or whatever, but we're hearing it about different parts.

Emily Taylor: Let's take a break now, eat our lunch, have five minutes. We'll resume our work at 1:00, but of course we can continue this conversation informally in the meantime.

[break]

Emily Taylor: I know that you guys are leaving in half an hour, so let's try and get – no, let's just try and get this – what are we going to do about this privacy/proxy stuff? Leave it as it is? What do we do? Okay, who's going to go first; Peter, Michael?

Peter Nettlefold: I'll be super quick. We had a discussion just before the break about the possibility of talking about an accreditation scheme, and including some of the for proxy and privacy service providers. I'd be very keen to look at that.

Emily Taylor: Any objections to spending some time on that? Seth, did you want to…

Seth Reiss: No I can endorse that, I just also wanted to say that I heard pretty clearly that at least three of us were very uncomfortable with the existing recommendations, and I know we had an informal rule that we wouldn't but, I'd be in favor, if there is a greater consensus that we're not comfortable with the existing, that we either move to an accreditation recommendation or we move backwards to "this is very important, needs to be solved," but don't give specifics.

Emily Taylor: James and then Susan.

James Bladel:	So just entertaining the idea that we would replace, is it two recommendations with one, that we would strike all the prescriptive stuff and just go with "There needs to be a PDP to develop an accreditation program" or something like that. How is that going to be, does that start to look like a bait and switch a little bit? Do people say "Wow this is a really radical change from what you originally put out there in a draft final?" I mean if it was an interim report I would be much more comfortable making a wholesale change like that. I mean how do we sell that?
Emily Taylor:	Susan and then Peter.
Susan Kawaguchi:	So I'd be much more comfortable entering into this debate via phone call or email or whatever, after we've seen all of the responses from the community. And if we could sit down and evaluate those on our own and then come back and discuss this – I'm not advocating to change what we have already, but I'd be much more open to utilizing the community comments because we've requested them. I think we should see and hear all community comments before we decide to go down a different path or argue about going down a different path.
Emily Taylor:	Yeah. And I just do want to re-emphasize in the strongest possible terms that we agreed to go into this discussion on the basis that if we couldn't agree something better we would go back to what we have agreed, which is I think, it's not the best stuff in the world but it is what

we could hammer out together. So I accept that there is a greater or lesser discomfort, no one is questioning that. But this is what we got versus nothing, or we could revisit. But I would caution that trying to hammer out, we've never managed as a review team to hammer out specific recommendations through phone and email, it's always been face to face that that interaction happens. So Peter, Wilfried…

Peter Nettlefold: Yeah look, so I won't focus too much on detail because we don't have much time. The one comment I would say is to James, I'm very mindful of that, but hopefully the input from the community will give us some guidance to go on. But regardless, I don't think it's that much of a radical departure from what we were proposing in the first place anyway. In both cases we've got the mandatory/voluntary thing. But in either case we've identified a problem and we're suggesting a solution which somehow is to put some standardized processes around these. The mechanism would be slightly different in that it would be an accreditation scheme to be developed.

But I think we could sort of, it's the same problem, it's the same sort of solution, it's slightly different and we'll phrase it differently, but it may not even be as big as we thought. And I'm very mindful of Emily's comments and obviously that we want to finish this report. So to take this forward, I'm happy to work with others who are interested, and I'm sure I know that there are several, to a very strict deadline, something along the lines of one to two weeks, to produce an alternative and the reasoning for the alternative very, very clearly to anyone else who wasn't involved in that so that we can see if it will fly with others in the

team, or if everyone wants to be involved. But I think we should set a pretty tight deadline and I'm certainly happy to work towards that.

Emily Taylor: Peter thank you for that suggestion. Before moving on to Wilfried and Seth, can I just have a sense of who would like to be involved in that and what would be an appropriate deadline? James, Susan, Seth and Peter. Yeah you, so James, Susan, Seth and Peter. And what about we have, by our first call we have some alternative text plus reasoning? I think that as before I expect that if you guys can thrash out something that you're happy with, that the likelihood is that it will be acceptable to the rest of the group, because we have there a very good…

[background conversation]

James Bladel: I would hope that's true, but I would also just point out that that was the instruction given to Susan and I when we came back with this.

Emily Taylor: Yeah it didn't really work did it? Okay, well if we give ourselves every chance, it's a kind of – let's just do it like this. Okay. I'm sorry. We'll do it like this. Thank you for that offer. Please try and work on it by our first call. If you're unable to do that by the first call, we'll go back and just live with what we've got; always subject to the comments that we get in. James has flagged that we're likely to get some specific

comments on this from his community. Let's see what comes through the door.

But we'll give ourselves a limited window in which to improve things, and then we fall back to what we have previously agreed, otherwise we're going to disimprove compared to where we are. Sorry about that, Wilfried please go ahead, and then Seth.

Wilfried Woeber: First of all, I agree with the suggestion that we should wait for the comments to come in still, but even based on the comments we've already received, I would be really disappointed if we would lose sort of the flesh on the bones of these two recommendations. I think it could be worthwhile to try to role the two of them into one. Because what we suggest is pretty similar.

And just in case the small subteam comes up with a more vague recommendation, I would still suggest that we keep the list of bullets here, as it stands right now, at least as a suggestion to start the discussion. So just for the case when sort of we step back a little bit in our formal recommendation, we should still keep these items, these lists, I think, somewhere in the document as a starting point for a PDP or for whatever. Because I think we will disappoint quite a few people and quite a few parties if we step back considerably at that late point in time when we already have sort of the final draft of the final report.

Emily Taylor: Thank you very much Wilfried, that's very helpful. Seth?

Seth Reiss: …in the final week of drafting and weren't fleshed out at our Dakar meeting, and that's probably why they suffered so much, or in part. But the other thing is we have a framework that the four of us are going to work with; I think it would be helpful if anybody has some strong concerns about that to hear them now. Because it would be frustrating and we would be less effective if we find that out after we do our drafting.

Emily Taylor: Can I suggest actually that if you're able to, that you use some time here to sit down together. I know that might be a nightmare for you James. Okay. Just a suggestion.

Seth Reiss: But in particular if there's somebody in this room that's not going to be in the drafting group that has some concerns, I think it would be more helpful for us to hear them now then afterwards.

Kathy Kleiman: It's nothing earthshaking, I already mentioned it to Peter, that a lot of the language that's in here strikes a lot of the balances that we already talked about. So preserving as much as possible would probably be a great idea.

Emily Taylor: Peter.

Peter Nettlefold: Yeah look, just very briefly to Wilfried and Kathy's points. My understanding, and I was just tippy-taping out the framework of what we'll be working on, but let me just see if I've got an understanding so we take it away to this working group and don't surprise anyone. My understanding is we're going to go away, we're going to work on a combined recommendation, or series of recommendations which we'll ultimately treat privacy and proxy service in a similar way. That it will recommend the establishment of an ICANN based accreditation scheme for those services. I've heard that we should keep the dot points as framework or guidance in what should be part of such an accreditation scheme.

But as we've done with the existing recommendations, we understand that people are going to take them away some guidelines and develop the policy themselves, we're not doing that, but here's what we think should be considered in developing that policy. And also, that we keep as guidance, which is the point Kathy made to me, some of our intro blurb. That this policy should make sure, among other things, that it provides an appropriate balance between stakeholders with competing but legitimate interests, blah, blah, blah.

So it's an accreditation scheme, we give some guidelines for how that should be established. And as we do it at the moment we pitch it to the appropriate part of the community for development. Does that sound like what we're meant to be doing?

Emily Taylor: Yeah and I think if you respond to that and can we just have, can we specifically focus on the change, which is that we're suggesting an accreditation scheme. I think it's actually probably implicit in the words that we have already, but that would be where you're proposing to take this, an accreditation scheme for both and to combine. So, thank you. I think that gives us at least a process to go forward is we can't sign it off today, that's really helpful. WE have a deadline of probably a couple of weeks time.

                        So, should we flip back to data accuracy recommendations?

Kathy Kleiman: Can I suggest a way through it?

Emily Taylor: Yep.

Kathy Kleiman: Alice can we get those up? It's data accuracy five through nine. And let me raise the ones, and people probably have other comments, let me raise the ones that I have not heard comments on so that we can take them out and not deal with them.

Emily Taylor: We need to do four don't we? The-

Kathy Kleiman: Yes but I think with James, yes there are. There are comments on four. Okay, number six I haven't heard anything on. So just flag it if you've heard anything on it that we need to talk about. Number six – ICANN should produce and publish an accuracy report based on measured reduction unreachable WHOIS registrations on an annual basis.

James Bladel: Okay, very quickly. Some registrars have mentioned that that first study that we cited from 2009 cost something like – help me Denise – a metric ton of money, and they don't want to see, there's got to be a more efficient or economical way to do this on a recurring basis that doesn't cost what the NORC study cost. Thanks.

Emily Taylor: Yeah. And I remember having that discussion and we should just make it clearer in our preamble that we're not requiring all of this.

James Bladel: Random Q A spot checks to use some statistical analysis as opposed to, you know, yeah.

Bill Smith: I would urge caution. I agree with the sentiment of spending money wisely. I want these reports though to provide the next review team enough information, statistically significant information for them to do their work. I don't think the study should cost that much if it's done on a recurring basis. The methodology is established, somebody knows

how to do it and it just needs to be done. And if it can cost a little bit of money, I'm all for that.

Emily Taylor: Okay. Peter.

Peter Nettlefold: Yeah look, to agree with both sentiments just expressed..   Yeah obviously we want appropriate spending of money, but at the same time, I guess the bottom line, and this is probably what we should in our finding or in the recommendation itself to make clear that the bottom line is to get a timed series of data so that we can compare. So whether that means, presumably it doesn't mean repeating the whole NORC study, but presumably at the minimum it needs to use a similar methodology or be based on similar principles.

They've already been developed and so on as Bill said. The intent is to get a timed series of data so that we can track improvements, and I think we're pretty clear about that in our recommendations without replicating necessarily the whole study or spending money.   So hopefully there's a way to balance those two.

Susan Kawaguchi: So I guess, I mean we do refer to the NORC study, but part of this, I was envisioning as a simple, and I'm sure it's not simple just to take 100 million records or whatever in the .com database and sort them by registrant and see "oh we've got 50 that are just registered to A." So I mean the NORC study did the contactability part of it. I think we may

want to, and maybe now is not the time, but maybe in just the preamble to this is just indicate that some of the accuracy is just simple formatting errors and phone numbers and those kinds of things. And that seems like that would be an easy thing to track and look at, and wouldn't require people reaching out and trying to contact anybody.

Emily Taylor: Anybody else want to jump in on this?

Kathy Kleiman: I think what we're saying Alice maybe not the contactability part of the NORC study, am I getting that wrong? That it's really...but that's something more lightweight than the NORC study. Can we put that in, "more lightweight than the NORC study?" Okay, I guess my idea didn't work so I've got comments about five since we've already skipped it. My thought is five and eight have a lot to discuss too.

Emily Taylor: Bill, did you want...?

Bill Smith: Well I had a suggestion for wording that was – but I've now forgotten it. But in essence it's to point to the NORC study as an example. And if one can be done in a similar level of whatever, but basically less money. It doesn't need to be that expensive but it needs to be complete. I'll try and remember what wording I had.

Emily Taylor: Do you want to bring out your comments on five and eight?

Kathy Kleiman: Five – we've heard about the measure of 50% and I'm not sure what – and also that some of the things we're talking about may take longer than 12 months to implement, that we're going to implementing during the 12 months. So I wanted to ask James and others if they had heard of some better wording on this that might be usable. We also heard from the Board today, some people seemed to think about fixed targets were good and some people said we should be a little broader on it.

Emily Taylor: Okay, Peter.

Peter Nettlefold: Yeah look, I agree we need to be very careful about the wording here. This is one of the things that Chris mentioned in the Board meeting about deciding if we want this to be a firm target or whether there is flexibility given in. I acknowledge there may need to be some flexibility. I think the word you kept using Emily is it's "stretch target." And there's been a bit of discussion between the Board and he GAC, there was yesterday on a number of issues where there were targets which admittedly the Board set itself which it didn't meet and there was a little bit of criticism about that.

But ultimately, I think at the end of the day for most people came down to the fact that it would have been nice to know the reasons why targets   aren't   met.   Everyone   understands   that   there   are

implementation details and things never go as well in the real world as in this piece of paper were crafting. But the other I guess sentiment that we had in these recent discussions with the Board was one that it's not something to be just thrown aside. Actually there is a strong message behind this.

So I'm happy to tweak the wording, off the top of my head something like "ICANN should take appropriate measures to reduce the number of unreachable WHOIS significantly across coming years in the order of 50%" blah, blah, blah, "with appropriate reporting if these targets are not met," or something along those lines. Or "appropriate explanations of measures and" – I can't make it up on th spot. But the sentiment is that it's firm, and they should do everything possible, but.

Emily Taylor: Thank you. Wilfried and then James.

Wilfried Woeber: Yeah, well my wording suggestion would have been to leave everything in place as it was before, and just insert before the 50% "preferably within 12 months." Because I'd like to keep the 50% as a strategic goal, sort of not to make it easy to chicken out with 32 or 28 or 16% or 2. But I would acknowledge that sort of setting up the process and finding out how to reasonably implement it might prevent everyone from achieving 50% within 12 months. So I would rather keep the 50% and give them a little bit of leeway for the first round, and then keep it at every 12 months.

Emily Taylor: James, do you have a suggestion?

James Bladel: Yeah it's pretty far off the reservation but I'll just put it out there. So some folks were saying that rather than having these targets, 50%, that perhaps we outlie that in 2009 the NORC study found that this percentage of domain names, given industry growth we feel that this translates into x-million uncontactable domain names. And then we set the goal. And then what you would say is "by the next review team." So we set the goal for ICANN to reduce these to, chop up whatever that is, do the calculations, by the next review team with progress reports at one year, two years, and three years so that the next time this issue is reviewed we see that it has been cut 50% in the first year, 50% in the second year – so it's essentially the same thing, but it's kind of instead of saying "Do this right now in 12 months 50%," you actually kind of hold this out here and say this is an ongoing process, so maybe they're going to fall short in the first year, make it up in the second year and get some program up and running. Something like that. So that was one suggestion that was relayed to me. I don't – repeating is not endorsing, I think is the way to say it.

Peter Nettlefold: So what you're saying is as it's currently worded within two years is an aggregate 75% reduction or something? We would keep the same goal but spread out the timing so that it takes time to ramp up sort of thing?

James Bladel:	Right. Recognizing that that's the end goal at the end of two years. That we would want a progress report in the middle to see if they were on track or not.

Emily Taylor:	Yep. Bill.

James Bladel:	I'm sorry. And that we would use raw numbers instead of percentages, might be tougher. I don't necessarily agree with that part of it.

Emily Taylor:	Because you've got such a moving target, how many, it doesn't take into account the general growth of the domain space.

Bill Smith:	I would oppose…

Emily Taylor:	But I think the approach that you've set out sounds to me like it could have legs.

Bill Smith:	So I would be okay with something – I'm mostly, I'm very much in favor of the original text. Part of the reason is because it did elicit comment. "How did you come up with these number? What does it mean" I thought that was a good thing. People saw it as they are actually recommending real improvement. If there's some way that we can in

the sort of notes to it soften it a bit, or as James has suggested, 75% over two years. To say it's basically does not necessarily have to happen in the first year. You're not going to fired if you don't do this.

Well what I'm detecting in a lot of this is we don't want to be accountable because we might not be able to achieve it. And if they get to 30% improvement, I'm going to be very happy in the first year. I'm not going to go out and say "wait a minute that's terrible" provided that in the second year, it maybe is made up.

Emily Taylor: Which is going to James' proposal.

Bill Smith: Which is James' point, right. So for me these things are aggressive. We are stating we want metrics. And I think that's a good thing.   With respect to the specific number, as Emily mentioned, it's a moving target. If suddenly we go from 200 million or whatever the number is to a billion domain names, instantaneously we've, if that incoming information were more accurate it's going to – the organization will have met the goal and will have done nothing.   So it's either a percentage or it needs to be some number per thousand domain names registered.

Emily Taylor: So my queue is Sarmad, Wilfried – did you just want to come in directly.

James Bladel: It's very brief. I just remembered why – I went back and looked at the email – I just remembered why they wanted the numbers instead of percentages. Because they thought we were trying to fix a Legacy problem, and that that should not grow with the growth. So it was intentional, not overlooked, sorry.

Emily Taylor: I think that it very much depends on what happens going forward with the RAA actually. Because there's an assumption there that there will be a different system going forward which isn't necessarily guaranteed on data validation going in. Sarmad and then Wilfried.

Sarmad Hussein: So going to a different meetings the last couple of days, there was also actually a lot of support for these numbers, and there was some talk about making them, raising the bar even higher. And I think what the suggestions are coming on the table are reasonable, but I, even if you want to soften the middle, first year targets, I would still suggest that you keep them, don't do away with them. So don't give a two year target, it should be a very concrete target for the first year. One can soften the language a bit and then have something concrete for the second year. But not having a target after first year would mean that people may just start working too late.

Emily Taylor: Yes, that's a welcome reminder of bringing us back to reality and targetology. Wilfried.

Wilfried Woeber:

Yeah just for the clerical thing, what we are having on the screen right now is actually an improper mixture of the two proposals by Peter and myself. So we should either sort of pick one or the other because at least – "preferably" should have gone next to the "within 12 months."

Emily Taylor:

Okay. Peter is actually suggesting ditching his language and going with yours.

Wilfried Woeber:

Just to make sure that we are not sort of mixing things and…

Emily Taylor:

Yeah well said. And then delete the "significantly across the coming years….." Okay, we'll keep them both as choices. Peter did withdraw it. So delete the "significantly across the coming years in the order of…"

Kathy Kleiman:

Can I try something else?

[background conversation]

Kathy Kleiman:

Number eight – something I think is just a clarification. This comes out of the…

Emily Taylor:	Sorry. Before we go into that Kathy, can I just interrupt and say I think we're good there, yeah? Obviously we'll look at the comments as they come through, but for now I think we're all happy, which is great. Please go ahead.
Kathy Kleiman:	Number eight – I've heard from a number of people that it's a little ambiguous about who has responsibility for what, and seems to imply in some cases that the registry might have responsibility for registrant data that's not part of their contractual agreement. So just a quick thought on the second sentence of number eight – "as part of these agreements, ICANN should ensure that clear, enforceable and graduated sanctions apply to registries, registrars, and registrants which do not comply with their duties under the WHOIS policies."
Emily Taylor:	James.
James Bladel:	I don't really know if it belongs in our report or not, but I remember the comment and it was fairly extensive and I guess my question is if we believe that registries have obligations to accurate data, then we need to demonstrate that to them. Because essentially at least one of them is saying that they don't believe that this applies to them or – can you help me with that here? I think we're thinking of the same person.

Kathy Kleiman:	Well the registries obviously thought initially "Well what are you talking about, sanctions for us under the WHOIS policy," I'm like "Well you have duties under the WHOIS policy. If you're a Thick registry you've got a duty to make that available and of course you should be held responsible. And I think the idea of the WHOIS Review Team that there be graduated sanctions applies to you to," at which point they turned several – well never mind, we're on record.
	But here, as we've said many, many times, registries under the current system have no contact with the registrants, and in fact, by contract, are barred from communicating with them. So where there can be some informal communication with registrars, I think what we're thinking about here under "existing policy" is the existing duties. And so if we clarify that then we take a lot of energy that might be misdirected and say let's just…
Emily Taylor:	That's very helpful, thank you. I can see Bill and Peter asking for the mic, anybody else?
Bill Smith:	So, if I could, certainly the .com contract has a WHOIS clause in it. Right? "WHOIS service – registry operator shall provide such WHOIS data as set forth in Appendix five" – they have contractual obligations. So I think the statement we made is actually quite clear. And they need to be, ICANN needs to have these things that are enforceable. They should be graduated. If a registry operator doesn't have a WHOIS

service that's operable for a millisecond they shouldn't be terminated. But they – hmmm?

Kathy Kleiman: But we're not changing any of that.

Bill Smith: But my point is the registries are reacting and saying they have no responsibilities in WHOIS and they do contractually.

Kathy Kleiman: They do.

Bill Smith: So for me, if we get a comment like that, I think the response is "We disagree; you have obligations under the contract. Read your contract."

Emily Taylor: I think we're in agreement.

Kathy Kleiman: I think the problem here was it's under data accuracy and registrars don't have – they have different duties under WHOIS. It's the data accuracy that's confusing them, so let's just clarify that for them. Sorry Peter.

Peter Nettlefold: No you're right. Look I had a different intervention but I think – well my understanding is there's talk of cross-purposes here because I don't think the suggestion is to remove any of the "clear, enforceable, graduated sanctions," which I agree I wouldn't agree with. But it's simply to clarify who they apply to. So it's saying that there should be "clear, enforceable, and graduated sanctions on registries, registrars and registrants if they breach their own obligations" – simply clarifying the target.

And if that's correct then I'm okay with it. If it's not then I'm not. And I would actually look across to Seth potentially as our legal expert in the room. My concern was actually with the word "duties." I was seeing something like "obligations." And if we can say "contractual obligations" I would prefer to say that. I see James nodding, so perhaps I'm right.

Emily Taylor: I'm very happy to go to yet Seth on any drafting. I've got Susan, anybody else want the mic? And perhaps can speakers also please just indicate which of these alternative wording they're least uncomfortable with?

Susan Kawaguchi: So I guess I am comfortable with the original wording, "which do not comply with its WHOIS policies," but I don't quite understand the discussion, the need for the discussion. And I am definitely not, the word term "duty" also bothers me, maybe "breach their own obligations." But I sort of feel like we're just re-enouncing the words.

Emily Taylor: Well I think, as I understand it, the issue is some parties are worried that they are going to be held responsible for contractual provisions that are not in their contract. Is that what it is?

James Bladel: Somebody else's.

[background conversation]

Emily Taylor: If you couch it as "Its WHOIS policies" you're not saying "as they apply to you," so it's just a clarification.

Susan Kawaguchi: Yeah. When I read it "Its WHOIS policies" does – I mean I think we spent a lot of time on this one.

Emily Taylor: So what about "If they breach their respective obligations under…"

[background conversation]

Seth Reiss:	I think the word that we need to shoehorn in here somewhere is "under their respective contracts," because I think what registries are saying is they don't want to be on the hook for a registrar not delivering on their contractual obligations. Am I missing something here? If we can say "What you're responsible for under your WHOIS obligations under your respective contract." Because we're not creating new responsibilities right?
Bill Smith:	Can I jump in?
Emily Taylor:	Yes. I've lost track of my queue. I think it's…
Bill Smith:	I'm struggling to understand how the original text really doesn't say that. Someone has to bend over backwards to read the language, in my opinion, in a way that says as a registry I'm going to be responsible for a registrars negligence.
Emily Taylor:	While we may agree, I don't think there's any disagreement around this table about what we're heading for and what we're trying to get, is this unbroken chain of responsibility for people's, for their own obligations. I've know problem in providing clarity even if I don't think it's necessary.

Bill Smith: How about if we put in a note that said "Note: nothing in this recommendation suggests that any party bears responsibility or liability for the action of another."

Emily Taylor: My worry would be that that would provide an potential escape hatch to get people off the hook from their contractual obligations where they are responsible for third party actions.

James Bladel: I'm sorry. I have to excuse myself now.

Kathy Kleiman: James is there anything else you want to share before you leave?

James Bladel: Just that you guys have done a great job this week, taken a lot of arrows. I don't know if you've heard but registrars are involved in something else right now and so that's taking away a lot of my time and so I appreciate your forgiveness, indulgence, whatever, but carrying on so many things without me. Thank you.

Emily Taylor: James before you go, I'm sure all of us would like to thank you for your contribution to this.

James Bladel:	Thanks and have a safe trip home Emily and we'll see you guys in Prague.

Kathy Kleiman:	Thanks for spending so much time with us today, much more than you thought.

Emily Taylor:	Where are we at on this one? Is anybody going to die in a ditch? Seth, did you want to?

Seth Reiss:	Yeah I just, I think this is simply wordsmithing and I think people are reacting too much either way. I agree with Emily that clarification, although not necessary is probably good. And we heard that at the Board meeting. I heard what James said and since he's now out of the room – no, just kidding. I would have said this also. I prefer the language of the "respective obligations under the WHOIS policy" simply because it allows somebody too look beyond the contract in interpreting the contract, but I don't feel so strongly about that that I could also live with the other language.

Emily Taylor:	Alice, could I just ask you instead of, because at the moment it says "there respective contractual obligations under their respective contracts," I think the last three words ought to be "under the WHOIS policies," yeah. I'm giving this to Seth. Let's not use up our time, yeah.

[background conversation]

Emily Taylor: Okie dokie.

Kathy Kleiman: Appreciate it Bill.

Emily Taylor: Thank you.

[background conversation]

Emily Taylor: Delete "which do not comply with their duties under the WHOIS policies'. I think we're good there. Anything else on data accuracy people?

Kathy Kleiman: That's remarkable. I think it's remarkable.

Emily Taylor: Let's, with trepidation, move on. Okay, move back to four. We're doing opposites day today.

[background conversation]

Emily Taylor: Sarmad, okay.

Sarmad Hussein: So, just reading, if you go up Alice to number five. This "preferably" here sort of just makes it too open I think. And I'm not sure, because this could be then two years or three years or I'm not sure what we're saying.

Emily Taylor: My suggestion would be that we actually leave the target as it is or, and then sort of do a kind of unless thing and say "unless," just out a positive obligation on the ICANN staff or Board to come up with an alternative. In sort of, unless you can come – basically what we're saying is this is what we want you to do unless you can show that it's unfeasible and present a workable…

Kathy Kleiman: Unless you can show that it's unfeasible and…

[background conversation]

Emily Taylor: Okay, okay fine.

Kathy Kleiman:	Common interface. Recommendation 17, before Peter leaves – we can finish this later. Sorry, I don't mean to…
Emily Taylor:	No, no, no.
Kathy Kleiman:	Okay. Recommendation 17, I'll just open it with a general lots and lots and lots of questions about this, so whatever we do we have to clarify what we're going for and what we're recommending. From my perspective, from the registry perspective, ongoing concern about ICANN in an operational role. But they don't seem to mind delegating it to a third party contractor. So there you go.
Emily Taylor:	Thank you. Bill.
Bill Smith:	So I think I took the action to come up with proposed language. So, in the alternative, that's the one I looked at, I would change, I'd leave the first sentence as it is. I would change the second sentence "such interface" instead of "should," I would make it "would" – or I offer as a proposal. Instead of "Thick," "a single point of access" and I have "access" in Italics and Bold. We may not need that emphasis, but. "To WHOIS data. Thick or Thin," and that's it.

[background conversation]

Kathy Kleiman: Those are loaded words, "thick," "thin." I just stay away from them seriously. Because it creates a redundancy or records.

Bill Smith: I'm okay with that. Hmmm?

Kathy Kleiman: Then you're showing the "Thick" record and the "Thin" record and now you're really going to confuse people.

Bill Smith: I'm not showing it. There is only one record, it is either "Thick" or it is "Thin."

Kathy Kleiman: No, it's not.

Bill Smith: WHOIS data is a plural, it's not a singular.

Emily Taylor: Okay, can we have…

Bill Smith: I'm okay with changes, I'm just saying what I tried to put in here, if I could comment, is to highlight that we are talking about access. We're not talking about a distinct, that this all is Thick WHOIS, but the terminology is there that people seem to understand, that there are Thick registries and Thin registries and we are talking about a single point of access to all the WHOIS data for gTLDs, regardless of whether it is contained within a Thick registry or a Thin registry.

[background conversation]

Bill Smith: Okay, that's fine. I would be okay with that. That would be a good suggestion. I was trying to keep words to a minimum.

Emily Taylor: No.

Kathy Kleiman: That's why Thick or Thin doesn't tell you the data, you're trying to look at the full WHOIS record. Let me think about this for a second.

Emily Taylor: Okay. So we're all heading in the same direction, which is that with this lookup you get the full dataset.

Kathy Kleiman: On a different note, multi-lingual interface. There is, this is a command, this is a recommendation to do something right now. And I will refer again to Dr. Sarmad, but I received comments that there is no existing multi-lingual interface that's consistent with protocol – I mean there's a whole bunch of questions about multi-lingual interfaces. So I almost wonder, and again looking at Michael and Sarmad, is this, is the goal of the dedicated multi-lingual interface a future goal for when the protocols and the standards are achieved. And I know we're now going into the IDNs, but I understand that tomorrow we can order internet.net, or we can recommend that internet.net include information on .com records from the registrar so that you have Thick data. I'm not sure tomorrow we can get a multi-lingual interface.

Emily Taylor: I think that you might be confusing two issues there. Peter, my queue is Peter, Seth, Bill.

Michael: Yeah but the question was sent to us.

Emily Taylor: Okay, go for it.

Michael: So, I will be very brief. I am not for multi-lingual interface. I would rather prefer that everything is in Russian. But then if not, let it be English. However, just for the purpose of unanimity, of course I would support any decision, but it's not a pre-requirement on my behalf.

Sarmad Hussein: This recommendation is coming from the user study right? Or was the source of this recommendation….

Emily Taylor: Yes it is, it's from the consumer study.

Sarmad Hussein: Right. So I think in that context we were trying to capture the usability issues rather than the multi-lingual issues. And usability issues are more focused on link is available, they know how to get to it. And then also, awareness issues. That they know that WHOIS actually exists. So if this recommendation is actually coming out of the user study, those are the sentiments we want to capture, rather than going to multi-lingualism, which is actually captured in the next three recommendations. And not sort of mix the two.

The second thing is it's the data which needs to be multi-lingual, not the interface. And interface should actually have the ability to render the multi-lingual data.   And so this is sort of incorrect in saying that interface should be multi-lingual. It really doesn't, well that would help, but I think the pre-requisite is have the data in local language first.

Kathy Kleiman: So how would you say it?

Emily Taylor:	I'm going to, I get the sense that Bill would like to take the mic, but I do have Peter and Seth in the queue Bill, and Wilfried did you want to come in as well?
Wilfried Woeber:	Well yeah I wanted to sort of to continue with Sarmad's thinking. We have to understand that it's not just the interface itself which should support [UTFA], Unicode or whatever, it's the whole registration machinery. Because there is no point in having support in the display part of the game and you cannot reasonably register your contact data in the database itself. So sort of the whole system has to support multiple scripts, multi-lingual, whatever. That's my view on the whole thing.
Lutz Donnerhacke:	I second this. Lutz here.
Emily Taylor:	Lutz can I – I can see Peter packing up his stuff so can I just give Peter the floor first before he goes and then we'll come to you after Seth and Bill? You can go after Peter.
Peter Nettlefold:	Thanks everyone. I was going to make a point which is exactly Sarmad's, but you have a greater technical understanding so I'm glad you made it. I think the solution is just to remove the word "multi-lingual" if the interface is able to provide unrestricted and public access to complete WHOIS information, if that information is in a different

script of multi-lingual than presumably what we're saying is this interface should be able to provide that once it's available.

Either way, I have complete confidence in everyone's ability to craft this. I think it's going in the right direction. My goal for this was to provide better accessibility for consumers, and it seems that everyone agrees on that. And that it extend to all registries, it seems that everyone agrees on that as well. So I'm entirely comfortable. I bid you farewell temporarily and will be in touch via email soon.

Emily Taylor: Thank you Peter, see you soon and thanks for everything. Lutz, please make your comment.

Lutz Donnerhacke: Oh hi everybody. I'm very happy to see the changes on the other matrix for the public comment, that's more accurate than the text before But I want to have the multi-lingual text in there, not only for the data, more for the interface, because we are aiming to interface to allow users to access to the WHOIS data somewhere in the world on some database. So the user needs to understand how to access the data and how to interpret the data. So he needs an interface in his own language, in his own script. That's the reason I put in the multi-lingual interface, that slide, it comes to make it easy to use. Not easy to understand but easy to use. Multi-lingual data is a complete different issue.

Emily Taylor: Thank you. Seth and then Bill.

Seth Reiss: Okay, the first point is about the Thick and Thin. I think clarity is super important in this recommendation and I'm a little confused still. My understanding is that the goal is full record, you see the full record. If we reference "Thick" and "Thin" I wonder if somebody will use that to give us less than a full record. But I think that's just wordsmithing. The "multi-lingual," I think we've hit on an interesting debate. I think we're all learning. I take Lutz's point that the interface should address non English speakers need to figure out how to sue the interface.

As far as the data, I wouldn't want to see this recommendation held up until data is truly multi-lingual. I think language, saying that "it will access multi-lingual data as such time as that becomes available in the WHOIS services" might be appropriate. So we don't have a situation where we're waiting five years for the interface.

Emily Taylor: Bill and then Sarmad.

Bill Smith: Okay. So, apologies for being pedantic. It isn't – "multi-lingual interface," it means the interface, the way you interact with the website, because we're talking about a website. So as an example Paypal, [speaks French]. We have that today on the web. We also have a German version and a French version. That means home, personal, business, developers – we have multi-lingual interfaces. I think all of us use them on the web. You go to a site and it says "would you like to be in English, French, German." The data that may be presented from such

an interface would be whatever the data is behind it in the WHOIS record.

My understanding of this recommendation was instantly ICANN should create an interface, a website and an interface in multiple languages to provide access to current WHOIS data. Presumably, from my perspective, as the other recommendations we have made with respect to internationalization are adopted and developed and implemented and deployed, the data would then become internationalized, localized and flow through the same interface.

So this is about presenting information, the interface in a manner that people understand it. As Michael said, his preference would be Russian. To me that's all this says is "provide mechanisms that people can access, they can understand and access the current data."

Emily Taylor: I'm going to go to Sarmad now. I would like to hear thoughts on Kathy's point, which I think is the right point, the term, rightly or wrongly, the terms Thick and Thin WHOIS are charged terms and they also have confused people. So what we're – the unrestricted and public access to accurate and complete WHOIS information is in fact all we're asking for isn't it? We could delete the whole of the next sentence, except for the "All gTLD domain names." So, Sarmad, Bill.

Sarmad Hussein: So, two comments. One, that I think again, that we are talking about accessibility even if there is a multi-lingual interface which nobody knows how to access. That would be defeat the point. So I think the

emphasis should be on accessibility rather than interfaces. And the second thing is, reading number 17, it to me sort of seems upside down. That by the time I get to the message I want to give, I'm already too entangled with Thick and Thin and all these other things and seemingly lost inwards. So, even if you want to bring Thick and Thin registry concepts that should be worded where you have the last bit first. Have accessibility and then bring Thick versus Thin kind of debate if you need to, if you need to. I can probably second what you're saying that we just say that it should be available across registries or something.

Emily Taylor: Yes. And I also don't want to lose track of what you were saying earlier which is what drove us to make this was the consumer research. So as we're presenting it we will be highlighting that as a finding, and that what we're really getting at here are two things that accessibility and usability for general consumers. So I think at the moment we've got some way to go on that. Bill and Kathy.

Bill Smith: So I agree it is about accessibility. I suggest we be cautious using that term. "Accessibility" in software design means for those with physical or other disabilities typically. If we are talking about access, general access and people awareness, absolutely.   And I think it should be in the general term of the word "accessibility" yes, it needs to be accessible. I'm happy with just the first sentence actually.   But people, we have found, encountered people who don't understand what it means. I could say, we could go and say "Well you just go to the root and you tour it until you get to a leaf note."   Any technical person would

understand that, but I fear that if we wrote that no one would understand that.

Emily Taylor: Yes, people would need to be hosed down wouldn't they? I think that we might be able to, my impression was that people were calmer once they understood our reasoning. And so this recommendation might be helped by the reasoning that precedes it, when we come to that. Can we, for the moment, put square brackets around, from the beginning of the second sentence. Put a square bracket there and then pop another square, sort of close that square bracket after the last highlighted bit, so that it would be "complete WHOIS information for all gTLD domain names. I don't know what's wrong with my throat. Next on the list.

Kathy Kleiman: Okay, just as Bill was saying the word "accessibility" means different things to different people, I think we've learned the word "interface" now means different things to different people in different stages of interface development. Sorry Lutz, but that's also what we've been hearing at some of the public forums. So how about changing the title of this from "Data Access/Common Interface" to a word we coined guys – "Data Access/Findability" because that's really what we're going for here.   And then "To make WHOIS data" instead of more accessible, "more findable for consumers." "ICANN should set up a dedicated," I'm not sure we need to say multi-lingual because there seem to be some issues on that, "dedicated website to allow unrestricted" – I would actually say "to allow access to the complete WHOIS information." Alice has a question.

Emily Taylor:	Okay, Lutz has raised his hand hasn't he? So we go Bill, we go Lutz and then Sarmad.
Bill Smith:	Okay. So from my perspective, being deeply technical, "interface" is a well understood term of art. And we're talking about a website and there are interfaces as websites. So the people who would have to build the website would know intuitively, as practitioners, what is meant by that recommendation when they saw it. And I would object to removing "multi-lingual," because if we take "multi-lingual" out then it's only going to be in English and that's not, from my perspective, that's not helping people around the world access this information and moving in the direction of both internationalized and localized services. So I think both of those words are important.
Emily Taylor:	Okay Lutz. I've got you on the list Seth. Maybe we'll come back to Lutz. Lutz?
Lutz Donnerhacke:	Hi?
Emily Taylor:	Was that you?

Lutz Donnerhacke:	Okay, I just had trouble with my phone. Sorry. I do understand that there's a problem with the term "interface." I think the term "interface" in this recommendation here prefers to the website, to the presentation of the website. Not to make (inaudible) and not to debate the data present here. It's just to understand what's the technical contact. The technical contact is for instance the term which is not easily understood. So we need a local language term to describe what happens here. What's the role of the person mentioned in this information paragraph? Even if the name of the person can't be read because it's in Japanese, that doesn't matter. It has to be understood that the structure has to be explained, has to be explained what it means here. What the email output presents here. We have a (inaudible) [of public purpose here] – when can I connect to the person, what kind of information can I present to the person behind this address.

This needs to be addressed and it needs to be easily understandable by the person using the website. That's my understanding of multi-lingual interface.   And on the other hand, I highly recommend to keep the second sentence there which is currently in brackets, because it explains the difficulties in this recommendation in a very good way. It says that the interface we are recommending here, an interface with just a single point of access to the scattered data. And I think we can't miss this clarification and I would like to have it in, to keep it in the recommendation to make it clear what this recommendation is about. Thanks.

Emily Taylor:	Thank you Lutz. Next I've got Sarmad and then Seth.
Sarmad Hussein:	So are we going with the alternative portion? Is that what's being…?
Emily Taylor:	See I haven't heard any screeches go, that we seem to all be focusing on the second alternative. Should we just clarify that?
Kathy Kleiman:	With a note that ICANN is already providing a dedicated, although maybe not multi-lingual, website for access to the Thick WHOIS data, any Thick registries. Internick does. It doesn't provide for the Thin.
Emily Taylor:	It doesn't work.
Kathy Kleiman:	I use it all the time. So what I heard was – and also are we saying that ICANN should or that ICANN should be responsible for? Are we ordering ICANN to do this; become operational, or what do you think?
Sarmad Hussein:	Okay, so if you're talking about the second part, the second definition, I'm actually happy with this. "Accessible" is only covering one part of what we were after right? We were also talking about making it better known that the service exists. Is that something which is covered anywhere else or should that be covered in this recommendation?

Emily Taylor: I think we have got a general outreach recommendation, which I think ought to cover all aspects. I beg your pardon, Seth.

Seth Reiss: I have to get you back. I just wanted to endorse that we use the term "interface" and "multi-lingual." And I was wondering if we said "interface website" or "website interface" would that make anybody more, would that be anymore clear. I don't know. And then to pick up on Sarmad's point, it could be that when we have our recommendation in outreach, we actually specifically mention the interface once it becomes available, as a possibility.

Emily Taylor: Bill.

Bill Smith: Okay, so I have another suggestion for text, completely different.

Male: Oh no.

Emily Taylor: No, no, let's keep an open mind.

EN

Bill Smith: I will read it. And you can follow along there, at least for a while, on the screen. "To make WHOIS data more accessible for consumers, ICANN should set up a dedicated, multi-lingual website," then in parenthesis "like ICANN.org," "to allow unrestricted and public access to accurate and complete information. Such website would provide access to WHOIS date regardless of where it resides for all gTLD domain names'. It removes "interface," it removes "Thick/Thin."

[background conversation]

Bill Smith: Okay, so basically the first sentence remains largely the same. It strikes…I don't have one. Can I email it?

Emily Taylor: Lutz has raised, let's go to Lutz. Lutz, please go ahead.

Lutz Donnerhacke: Yep. If you are providing a recommendation for a name use WHOIS.ICANN.org. It's not only the setup, should ICANN operate the website. And I think yes. I think ICANN is the only party that is able to provide such a public and unrestricted access. Most WHOIS servers, most databases out there have rate limits, have access limitations, have special procedures to get access to the personal contact information due to local law. And the only party in the whole game which has the opportunity to get this information out of these databases from a central point or access is ICANN because ICANN holds the contracts or

at least some contact to these registries. And I personally would like to have removed the gTLD reference here. I would like to have a centralized WHOIS interface to all WHOIS databases, not only domain name databases if possible. Thanks.

Emily Taylor: Okay, I'm not quite, I'd like to see Bill's language up there, I'd also like to move on because in the 25 minutes while I'm still with you I do want to have a clear plan ahead.

Kathy Kleiman: And also, just a quick flag that we may be setting aside existing WHOIS policy that includes some consensus procedures from the GNSO that limit the harvesting of the data for misuse. It seems like the language can be interpreted to allow, and based on what Lutz just said, I'm a little concerned that we're bypassing restrictions put on by the registrars, some of it to prevent the harvesting of the data for spamming purposes, and maybe saying ICANN is supposed to be overriding that. So let's put this on for future…But I'm not sure if the wording is being interpreted as purposely overriding that.

Anyway for a future discussion. And also, just to flag that we should come back to this after some of the IDN discussion as well, I think that would be useful.

Emily Taylor: Okay. Wilfried.

Wilfried Woeber: Well just a technical point. There is nothing in our recommendation which would indicate that this overall ICANN access mechanism would not have anti-harvesting capabilities, but maybe we should sort of add that. Yeah, correct.

Emily Taylor: So the general feeling with this is that we've at least, what we have achieved here is that we no longer have two alternatives, we're working on one. To my mind, the language isn't there yet, I have to say. We have a choice of going back to the alternative as it was put out. But I think I wouldn't mind a bit of blue sky on this, because I think we all have the shared objective, which is that there should be something that's really easy for users to use. It could be just as simple as "We recommend that ICANN expand it's current [Internix] service to provide the full WHOIS data for every domain name under its purview" or something like that, which would be…

Because I just feel like now ever sort of word in this has now become so charged and so loaded that if you came to it without, just from a standing start you've got HUH? And of course this is the one that's primarily about accessible and usable. So I think that we might take as an action from here, and I'm very happy to see if we could just like do a fresh draft for this, bearing in mind, and I'm happy to take that action, bearing in mind what I hope we share as objectives for this.

Because we know, which we didn't know before, that there is the Internix – or we knew, but we forgotten that there is something that we could frame this around, so that would make sure that's not going to

alarm people with PDPs or any of this sort of stuff. We're just talking about extending it and delivering the full data record.

Kathy Kleiman: So Alice, Emily is holding the pen on this one.

Emily Taylor: I'll hold the pen on this one and I'll get that by our next call. Not as something to replace necessarily, but just as a alternative to consider. Bill.

Bill Smith: I apologize, I had to take a bio break. I'm wondering what happened to the language I have crafted.

Emily Taylor: Yes you sent it over didn't you?

Bill Smith: Right but what I just heard is that the language, that you have the pen and we haven't even discussed it, so.

Emily Taylor: That's a good point. We haven't looked at it to be honest Bill and I'd completely forgotten about that. So it was something rather than a conspiracy. Alice did you have Bill's language that you could project to us? Could we put in "Full WHOIS data" or is that not needed? Can we just give this a little attention for a second?

Bill Smith: The parenthetical for "ICANN.org" is because from my perspective it is a multi-lingual website. There are menu items that you can pick to be in different languages. That's certainly what I'm suggesting that they need to do. Is allow you to access this from a number of languages and then to get WHOIS data regardless of where it lives.

Emily Taylor: Yeah, I like it. Sarmad?

Sarmad Hussein: Just a quick note. Can we say "make WHOIS data more accessible for consumers globally," just to re-emphasize that point, that we need a multi-lingual…

Emily Taylor: Lovely, yep.

Sarmad Hussein: After consumers say "globally."

Emily Taylor: Yep. I'm comfortable with that language. Is anybody else uncomfortable with it?

Kathy Kleiman: I am. Because I think we've got too much words. I wouldn't refer to a website in here. I'd like to table this so we can all think about it and take it back. So no, I'm not – too many words flying too fast.

Emily Taylor: I think that this is solid progress though. I think this is an improvement and I would like us all to consider it very carefully, and we will revisit when we next virtually meet. So thank you very much for that Bill. Lutz?

Bill Smith: I'd like to remind us that we can go back to the original as well.

Emily Taylor: Lutz?

Lutz Donnerhacke: Just a minor addition. Instead of "for all gTLD domain names," I'd like it to read "at least for all gTLD domain names" so we are open for more. Thanks.

Bill Smith: Sorry. Kathy, this isn't policy. This is an implementation. We're not saying this is a policy.

Seth Reiss: Recommendation.

Kathy Kleiman: Then we shouldn't be – we're reviewing existing WHOIS policy guys.

Emily Taylor: Sarmad has asked for the mic.

Sarmad Hussein: So where are these apostrophes? Why is this parting quote? I'm sorry I don't remember.

Emily Taylor: I think that might be a quotation from the Affirmation of Commitments.

Sarmad Hussein: Because I'm not really comfortable with the accurate part here, because I'm not really sure whether that can be ensured given the state of affairs.

Bill Smith: It is a quote from the Affirmation. I'm happy to have it deleted if we think that's appropriate. Provided that there isn't confusion by doing that.

Kathy Kleiman: "Complete WHOIS information" would seem to get what we're aiming for, which is whatever is available out there…

Sarmad Hussein: Sorry to, because this may actually be interpreted in a way that it actually requires some significant work, whereas what we are intending to say is ready to interface to existing data.

Emily Taylor: To allow...can you...can anybody...

Kathy Kleiman: Can't we do this offline?

Bill Smith: I'm going to suggest we go back to the original language.   We're spending an awful lot of time here and in the original, we take the alternative original language because that's what people seem to understand best.

Emily Taylor: I think we might be pretty close Bill.   And also, we did get comments that people felt that the language required some enormous PDP or something.

Bill Smith: But I'm hearing from at least one member of the team that they have issues with this, and if we're ever going to get through all of these recommendations we're going to have to find a way to fish or cut bait, as we say in the US. So I'm suggesting we either fish or we cut bait and I don't care which one at this point.

Emily Taylor: Sure. Kathy, Sarmad, Seth did you want the mic?

Kathy Kleiman: Okay, I'm proposing for sanity sake we table it. We're throwing a lot of words around. And again, "like ICANN.org" which I'm not even sure is good English…What I really want to get to is the IDN recommendations guys, 18, 19, and 20, while Emily is still here I think and Michael and Sarmad. There's some really big stuff, really cool stuff and let's save the wordsmithing for another day. We're in the right ballpark, it's just a matter of saying it properly. So I love the idea that Emily is going to go offline, maybe with Bill, draft something that incorporates all this and we'll live to another day.

Bill Smith: I made the suggestion that we go back to the original one.

Kathy Kleiman: We can't go back to the original one because it's alternative language. Of all the language we can't go back to, we can't go back to that one.

Emily Taylor: [We can't in terms of language.] And Bill also, despite what you say I think you've given us a very workable alternative to build on. So with your permission I would like to try and bring that on. You've just like lost the will to live many hours ago, yes. In fact, it's – well I think it is okay. I think it's going to be okay. So, IDNs in the last 15 minutes here.

Before we embark on this do we know what we're doing next? Is a call once a fortnight going to be enough?

Kathy Kleiman: No, once a week.

Emily Taylor: Once a week? So could you schedule calls once a week. We've given a team two weeks to come up with proxy/privacy wording. They know, you know who you are. I need a team to volunteer to rearrange and review the executive summary findings and recommendations. Can I have volunteers for that please? I need people to volunteer to review and edit the findings/recommendations within he executive summary. So we've got a very strong executive summary. It's mainly cutting and pasting and introducing our recommendations and formatting it. Who would like to work on that? Okay thank you. So I've got Michael, Sarmad, Susan, Kathy, Bill can you be involved in that? You don't want to be involved in it?

Bill Smith: My time commitments at this point are, I'm otherwise engaged on some timely CA browser forum stuff, the ITU and there's another thing, of the White House privacy principles.

Emily Taylor: Understood Bill, thank you. And I expect that probably all of us need to be involved in that work, but if we could just ask that small group to let us have something in two weeks time. I suggest that we do weekly from

two weeks time. I jut think that we need to recover from this and not immediately get back and go and then have a call. So we'll have our first call in two weeks. By then I'd like that team please to have gone through the executive summary and sort of rearranged the findings and recommendations. Is that realistic?

Kathy Kleiman: Is it okay to look at some of, what did Peter call it, the spiky parts of the executive summary?

Emily Taylor: Just do whatever you think is appropriate. You'll have the commend period closed by then. Let's have the draft with tracked changes so we know what you've done. And see if we can just knock it into shape. As I say a lot of it is copy and paste. And the findings bit from the draft report is also a good source. We had also agreed to rearrange the order of some of the recommendations. And then I also need a small team to volunteer to go through the body of the report itself in the light of the comments that we've received and just have a final edit. Seth, is that something I can load onto you to lead.?

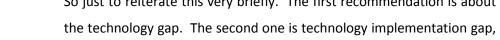Seth Reiss: Sure.

Emily Taylor: Yeah? And do you have anyone that you'd like to work with on that? Were you multi-tasking? We just agreed you were going to move to Tulsa. Okay, please can you – that was a consensus decision and thanks

for agreeing. Good bye everyone. It's to go through the full report, not the findings and recommendations, but sort of the guts of the report in the light of the comments and just do a final edit. With Omar?

Kathy Kleiman: Omar, we're drafting you.

Emily Taylor: Is that too much? The reason why I'm asking one person to the do the whole thing is because I don't think that much needs to be done. It's just tidying it…

Kathy Kleiman: Would you be willing to look at the whole report with Seth and just see if it flows nicely and if there are edits…?

Seth Reiss: Sounds big.

Emily Taylor: Give me a shout if you're struggling.

Seth Reiss: Alright.   At what point would that happen, early or late because (inaudible).

Emily Taylor: I think let's do a once over in the next two weeks, come back to the first call with some line edits. The reason, I just don't think there's that much to do. Have a look at the comments and just take a view, pop them in if you think they need it, any other anomalies or silly things just have a look at. It's not major surgery here. It's prettification. Okay? Alright, IDNs – we had I think we had agreed to a small group drafting some proposed alternative language. How did that go?

Sarmad Hussein: I think what's needed is probably some general feedback from the team to really see what is desired, and then we can go – because I had a setting with Kathy and I think what's clear is that what we want to say is probably not going across. And so I think it would be nice to have some feedback on the table from around the table and then we can go and do something.

Emily Taylor: Okay then, can I ask for feedback for Kathy and Sarmad on this? I don't see any hands. My feedback on it is at the moment it's quite dense and it's quite difficult to understand what we're asking. I believe what we're asking for is that we want the data, the WHOIS data to be, the work to agree how to standardize it – I know that's a charged term – that that be done and incorporate it into the service as soon as possible. Sarmad, Bill.

Sarmad Hussein: So just to reiterate this very briefly. The first recommendation is about the technology gap. The second one is technology implementation gap,

not the technology gap, technology is already there. But implementation of technology at ICANN. The second is about contractual implementation gap and the third one is about compliance implementation gap. So those are sort of the broader areas. As far as the first one is concerned I think what we would want to probably say is that the technology is already there, but ICANN needs to decide what to do with it. Whether to adopt some part.

And the second one basically suggests that whatever is adopted should be somehow reflected in the contracts. And then the third one actually says that whatever is reflected in the contracts needs to be defined how to measure accuracy of that information. So that's basically those three things. Is eventually adopted in contracts – we need to know how to actually measure accuracy of that so the compliance function.

Emily Taylor: Bill, Wilfried, and Kathy.

Bill Smith: So I'm with Sarmad basically on this. The three, for me anyway, I read these three things and they're quite understandable. And it is basically saying, the first one, number 18 – "to the extent possible, using existing technology," mechanisms whatever, get a working group, nail the stuff you need to do to properly do internationalized registration data, domain name registration data. The second one says once you've done that quickly get it into your contracts. And the third one says and then you need to be able to have a compliance function that deals with internationalized data.

And we tried to put in enough specificity around this to basically direct people. I am struggling a bit with the level of confusion I have heard with respect to this. we could completely rewrite this and make them very simple – "use existing stuff, do it now. Write it into your contracts." And then we would get the complaint, I suspect, that we weren't specific enough.

Emily Taylor: Thank you. I haven't actually heard any substantive disagreement from the comments on these recommendations, so that's something also to bear in mind. Wilfried.

Wilfried Woeber: Just the wording aspect. I think part of the mix up and problems in understanding is the headline for this section of three recommendations. And I would suggest to not just say "International Domain Names," but extend that by adding "Domain Registration Data." Because the headline is misleading because what we are actually saying is it doesn't make any difference whether it's a gTLD in whatever script. What we actually want to have is the full system should support internationalized technologies.

Emily Taylor: I see lots of nodding to that Wilfried. So thank you for – did you?

Kathy Kleiman: Yeah but just because I'm told that-

Emily Taylor: I'm going to leave you at this point.

Kathy Kleiman: A round of applause…

[background conversation]

Kathy Kleiman: Safe travels Emily. Okay. And for those who are online, by previous agreement we've agreed that as vice-Chair I would take over as Chair. So this is Kathy Kleiman now Chairing the meeting and glad that people are still here. Because just so you know, we've got 18, 19, 20 and I believe four if we want to go back and hit four, the outreach recommendation which we skipped over.

                                 So, on internationalized domain names, my thought is that we focus on the WHOIS data. But go ahead sir. I was in the queue, I'm going to go back in the queue.

Sarmad Hussein: So I think I would definitely second that, that this is actually confusing and we should actually call it "Internationalized Registration Data"; that's the term which has been used within ICANN already because there's actually an IRD Working Group, which is Internationalized Registration Data Working Group, so that terminology is already there. And just to give an example of what we want to say in 18, just to make

things very concrete. Suppose we want to store an email address of a contact person? It can be stored in ASCII. It can actually be stored in a series of Unicode points. It can actually also be stored in ASCII but as A levels.

So at this point, all the three standards exist, but ICANN doesn't say which particular format is going to be used for email. So everybody is going to be using a different kind of standard. And when I access that data I won't know how to interpret that contact information.

Kathy Kleiman: Question – there seems to be some question in the community about whether this ancient WHOIS protocol that we're using supports Unicode. And there are those who think it supports only ASCII and that you would have to change the WHOIS protocol in order to use the Unicode system?

Bill Smith: So the answer to that is that WHOIS, my understanding as it currently exists, support seven-bit ASCII data period. It will not support UTF8. I could be wrong about that.

Kathy Kleiman: The current WHOIS protocol, WHOIS as in protocol?

Bill Smith: Yes. I will check that.

Sarmad Hussein:	Yeah I think we should check that. Is it seven-bit ASCII or eight-bit ASCII?

Bill Smith:	Most everything is seven-bit ASCII. However, in order to do, basically to support internationalized domain name registration data we cannot use WHOIS, the WHOIS protocol. If it's seven-bit ASCII that is a fact. It's immutable. So from my perspective, these suggestions or these recommendations here are telling the community that there needs to be, that it needs to switch protocols. It needs to develop data models that will support modern systems, some of which have been around for 25 years.

Wilfried Woeber:	Well two comments here, the first one directed to Bill. Even if it's maybe hardwired into the RFC the seven-bit thingie, in practice most of the WHOIS implementations are eight-bit transparent these days. You probably are aware of that. But I agree, formally there is work to be done. Secondly, and that's maybe a broader field of missing activity that needs attention. Number 18 actually extends to the whole registration system. This extends to the EPP stuff. This extends to the interfaces between the users and the registrars, and between the registrars and the registries.
	Because even like in our little language, the German language with these funny five umlauts, this is IDN stuff in a sense. And if I would want to have my name written properly in the registration data I need either Unicode and/or eight-bit transparency, and the support in all the

machinery to sort of transport and to return that umlaut stuff.   And what I would want to register my name with the umlaut as a domain, it ends up as an "XN—" name.   So we are not talking .asia in whatever Hindi script or something like that.   It's just a very genuine problem that extends throughout the whole system.

Kathy Kleiman: So am I right that of all the recommendations this is the first one that's touching the protocol?   We have recommendations that touch the WHOIS service.   We have a lot of recommendations that touch the WHOIS data.   This is the first one that's touching the WHOIS protocol and what questions does that raise to our community and how well have we discussed that with them? Bill and then Sarmad.

Bill Smith: Okay, so a couple of things. One, this is reading from the RFC.   It's section four, internationalization…

Kathy Kleiman: Which RFC?

Bill Smith: RFC 3912. "WHOIS protocol has not been internationalized. The WHOIS protocol has no mechanism for indicating the character set in use, originally the prominent text and coding was US ASCII. In practice some view the service, particularly outside the USA, might be using some other character set for request, replies or both. The inability to predict

of express text in coding has adversely impacted the interoperability, and therefore usefulness of the WHOIS protocol."

So, a technical person reading this says it's not internationalized. I can't rely on interoperability. I'm not going to use this protocol as it is currently specified. For if I am expecting internationalized data. Another one has to be developed. Yes we are telling the community another one has to be developed. I believe that is a fact. I believe it is well understood by anyone who would need to implement access to internationalized data. And the fact that it is a fact, it is known, I struggle with what we would need to tell the community.

Because this is a technical detail that is dealt with, that it properly dealt with in another organization. The requirement if for access to information in multiple languages. And there are specifications that do this, there are ways to do this. It's a technical detail.

Kathy Kleiman: Does ICANN have the power to direct another organization, one presumes we're talking about the IETF, to do anything?

Bill Smith: It has no power to do so and we're not suggesting that it does. We're just saying one needs to exist.

Wilfried Woeber: So I think what's desired here is to first draft what the requirements are, and then perhaps see where the requirements are met by an existing RFC. And if it's not met do we go through an IETF process to take care

of that. But as far as requirements are concerned, what is required on ICANNs side, ICANNs perfectly authorized to do that. It's not really defining a standard here. It's only defining its own requirements of what's needed as far as internationalized registration data is concerned.

Kathy Kleiman: So here's another question. ICANN is defining its own requirements. Whenever possible it's nice to pat someone on the back for what they're already doing. There is a working group called the IRD, and in fact some people some people I've talked to have said "I'm a member of the IRD." To what extent is the work already going on and should we be referencing it in the report, that there are certain pieces of this that have been going on? I've seen lots and lots of meeting, so with some diligence. How can we acknowledge the current work of the community?

But the IRDWG is still in progress. So are we circumventing, pre-empting, continuing, supporting or cancelling the IRD?

Wilfried Woeber: I think it's supporting the work and it's encouraging more work, but we still need to have some comment on state of affairs, which is that internationalized registration data is needed, has been required, but it's not available.

Kathy Kleiman: Okay. Can I suggest that these recommendations seem to differ from some of our others, at least, I think Sarmad already said it, they're very

detailed. There's confusion in the community, including from the people who do a lot of IDN. Well we've talked about this, whether we can simplify it, raise up the level a bit on the review side, and also play with the word "accuracy" and "keep our level of data accuracy in the" – we're not going to call them IDNs anymore, we're going to call it – and kind of harmonize this across all of our recommendations.

Wilfried Woeber: Actually could I suggest – so I do agree that there may be some ways of making this, I'm sure there are ways of making this better. But I've not, in again the last two days of public comments and meetings, not really heard any criticism on these. So could we wait till public comments ended and see if there is complete feedback on this and then decide whether we need to change it rather than just pre-empting something and finally finding out that there's actually nothing there?

Bill Smith: Bill Smith. I'm with Sarmad. I haven't heard, outside of this room, significant confusion with these. I also believe that we could clarify. I think there is some complex wording. But I think the reason for the wording as it is, is because internationalization is itself a complex issue. And we're trying to direct, I believe, recognize what it is; establish some requirements; there are existing standards, specifications and technologies, use them where possible. And we could either put down there "Unicode, ISO 10-646, ICE, IRIS, CRISP" or other things. Or we leave it more open-ended to say the experts need to decide this. even though there are people on the committee, this review team who are

cognizant of these issues, we're not choosing to put that stuff in there because we don't want to be so prescriptive.

We haven't been that prescriptive, I don't think, except in the 50% and 50% in 12 months and 12 months. That's really the only time we said "you must do something and you must do it now and this is the stuff you should look at." So I believe that this is the right way, I think, for our recommendations, which is "there is stuff you could do, you should do it now, and know that you have specs that need to be written, requirements, protocols that have to come in, there's a lot of work that needs to happen and get on with it."

Michael"   I do support both Sarmad and Bill, so let's wait until we can hear anything additional. In principle the problem is as follows: yes it's fully clear that the introduction of IDNs and overall changes that we see now, they are not any how related with the WHOIS policy and this is a problem. Because such new technologies and such introduction of everything new we see now in the domain system, should not multiply the ambiguity and problems in WHOIS system. And I think we should fix it. We may simplify the text. But we don't want to think what that would reflect is exactly the introduction of IDNs should not multiple the issues with the WHOIS information. Because by now there is nothing about it and this provokes ambiguity and the possibility of misinterpretation, misunderstanding and inaccuracy of representing the data.

Wilfried Woeber: So I just wanted to reiterate what I said perhaps a little more briefly. As far as I'm concerned personally I am happy to redraft it, but I think I need some concrete feedback which should guide the redrafting. And some of those public comments which come in I think would perhaps provide the concrete feedback on how to actually redraft it. So that's probably the reason I'm saying so. So I just wanted to reiterate the I'm not saying that we should not redraft it. I think we should get the comments to guide us on how to redraft it.

Kathy Kleiman: Sounds fair. Just a quick note to Alice that I think we agreed to change the title of this section to "Internationalized Registration Data." Okay, thank you. I think that section is…the only recommendation I believe we haven't touched yet is number four.

[background conversation]

Kathy Kleiman: Okay, anybody have any changes to number four? Go ahead. A question that was raised I believe in some of the forums, was whether we were asking for, what type of program we were asking for on consumer awareness and what that meant. And it occurred to me that within the paragraph, and this is me not with the Chair hat on but as an individual, that we are combining two different things. As a policy person I understand policy outreach. But here we're combining policy outreach with the program for consumer awareness. I think we may have apples and oranges in the same sentence and we had some

questions about that. Did anybody else hear anything that would require or be helped by clarification here?

Susan Kawaguchi: My recollection is that, this is Susan. My recollection was that this came up through a discussion about registrants not understanding their responsibilities. And that we felt like ICANN shouldn't put that message out there that every registrant has a responsibility to keep their WHOIS data accurate and up to date.

Kathy Kleiman: That's the program for consumer awareness that we're talking about here?

Susan Kawaguchi: That was what I remember. I mean I could be…

Bill Smith: That is my recollection.

Kathy Kleiman: Oh, I was thinking of something else, interesting.

Susan Kawaguchi: Good starting point though, which is another reason we should do the little synopsis of where this all came from for each one.

Kathy Kleiman: Can we see just a few words then to add after ongoing program for consumer awareness – not to fix it in stone, but to clarify what we mean? Susan could you try something?

[background conversation]

Kathy Kleiman: Yeah sorry.

Sarmad Hussein: So as far as the consumer in concerned, they are more interested awareness in WHOIS service, not really in WHOIS policy right? So the last bit should be more on consumer awareness of WHOIS service or something like that.

Kathy Kleiman: Well that's just it, is it of the WHOIS service? So under the findability concept. Or is it under accuracy under kind of the registrant rights concept. And we're ambiguous here.

Sarmad Hussein: Right this was actually coming out of the consumer survey right?

Susan Kawaguchi: No, I don't think so.

Kathy Kleiman: So can put a question mark there Alice. And Susan, can you offer some quick language for the two alternatives that we're looking at, and then Bill we'll go to you. Susan, you want to try?

Susan Kawaguchi: I will try but I can't promise anything. Bill…

Bill Smith: This is Bill Smith.   My recollection on this one was that we were intentionally vague. There were some things about, we had discussion about, as Susan mentioned for registrants to be more aware of their responsibilities. But this one to me also would tie into the single point of access recommendation, to say "Let people, let consumers know that such a thing exists. Find ways to do that." And we would expect, or I would expect the executive in charge to say "Oh we need to do outreach. In reading the report, here are things that were discussed with respect to outreach." He or she should then direct staff to take action in that area.

And if we become very prescriptive here to say "This is what we mean," there is an opportunity for that executive and the staff to say "that's all we need to do" and I would like to be more open-ended and just say basically "We have a recommendation that you need to do more outreach. We discussed it in the report. Someone is responsible, they have authority, take action."

Sarmad Hussein: So I'm reading this larger report which we published, and this issue of consumer awareness if actually being raised in the context of the user insight study which we did. So this is actually coming from that context perhaps, or part of it is at least motivated from the context that users are just not aware of how to find WHOIS service or whether it exists or not. So I think I'm not sure whether we want to also lump community in it, or we just want to focus on consumers and separate out the community. But in any case, that's where it's coming from.

Kathy Kleiman: Yes. There's not big queues here so just…

Bill Smith: Bill Smith. So recommendation nine has the specifics I think that Susan was talking about. "ICANN should ensure that requirements" blah, blah, blah "communicated to registrants," but I believe it ties back into this one as well. But in essence it's not enough to just put a little notice in four point font at the bottom of the agreement that the registrant has to click through. We're suggesting, I think, that ICANN do more about notifying people what is required of them with respect to WHOIS with domain name registration data.

I would like to see changes in what data is collected and for what purpose, I would like to see that going forward. But there needs to be a communication to the registrant about what responsibilities they have, regardless of the data that is collected, regardless of the policy. Because it's unclear, I think, and we heard Rob Hall the other day

basically say "Yeah our customers don't want to provide this information so they don't and we allow it."

And in my opinion that's unacceptable. That is not operating according to their contracts or the policy. If the policy is wrong, contracts are wrong, they need to be changed. But we need to communicate to people what they are obligated to do otherwise they won't do it, and that's the state of the world today.

Kathy Kleiman: Good point. And we need to communicate to the Board what kind of program we're asking for, at least in broad terms. So is that what it is, is we're communicating – I'm still confused that are we communicating registrant obligations or are we communicating the existence of a website?

Susan Kawaguchi: Well I think Bill's right in correcting me because when I read nine again, which I just read 10 minutes ago and forgot, but –

Bill Smith: No Susan. I think they actually refer to each other in some ways. There are specifics.

Susan Kawaguchi: Yeah, but in some ways I agree with Bill in the fact that it is pretty broad and there are going to be a lot of changes in WHOIS policy in the next five years, otherwise this is all going to implode, in my opinion. So that

all should be communicated outside of ICANN, because it's never communicated outside of ICANN.

Kathy Kleiman: So an ongoing program for consumer awareness of WHOIS policy changes?

Susan Kawaguchi: Or WHOIS in general, WHOIS service. I would agree with that.

Kathy Kleiman: But we determine that consumers are the only ones not, to summarize what Emily said, that when we looked at it, law enforcement is using the WHOIS data, intellectual property is using the WHOIS data, services around law enforcement, but we found consumers weren't using the WHOIS data.

Susan Kawaguchi: We found that group of consumers weren't, but eBay had a very good education program for a long time. Go out and look at the WHOIS before you access a website. Now I don't know if it's still on their FAQs, but that was something we pounded on our users, because people would set up an eBay whatever site. And I don't think Facebook does that, I wish they would. So I think there's a need out there for people to understand WHOIS exists. So that's why it should be broad, maybe we take out "ensure that WHOIS issues or the WHOIS services" whatever the terms are.

But the intent of this, as I am remembering it – and let me tell you, it's been a while – is that we're a sort of very insulated group here that understands WHOIS. Yes people do not recognize the term WHOIS specifically, but they know somebody owns a domain name. They understand there's a domain name and there's a registrant. They may not know the term registrant. And so therefore ICANN, someone has to educate the consumers on the fact that WHOIS exists and it could be a good tool to ensure they're safety on the internet.

Bill Smith: So perhaps we would consider a change – "issues an ongoing program for enhancing consumer awareness of WHOIS" or WHOIS services. That's getting a little more specific in terms of what we expect on the consumer awareness program. And I'm just...yes. But I think that's – hopefully that's contained already, but perhaps not.

I would suggest striking the "for consumers of WHOIS." My suggestion was, I think was "for enhancing consumer awareness of WHOIS."

[background conversation]

Kathy Kleiman: I'm already confused.

Bill Smith: Okay, I'll get specific. WHOIS services, WHOIS data. I don't think any consumer is going to be interested in the WHOIS protocol.

Kathy Kleiman: Any – and again I'm thinking of – oh sorry Sarmad, go ahead. I'm thinking about how the Board asked us to clarify. "including outreach to communities outside of ICANN with the specific interest in the issues." Should we go ahead and say…

Susan Kawaguchi: When did the Board ask us to clarify this?

Kathy Kleiman: I thought that they said as many things as we could, to clarify really what we were thinking. So in parenthesis should we put in what's already in the findings, "including law enforcement and data protection commissioners," because those are two communities we flagged with a very special interest. So if there's WHOIS policy we really want to flag them, and it's strong, "including law enforcement and data protection commissioners." That was in the slides that we were sharing and that seemed to resonate.

Bill Smith: I would object to that.

Kathy Kleiman: Why?

Bill Smith: Because I do. We had agreed to language and we're now making a suggestion. The language is already in the report. If anybody wants to read it they can. I didn't, we had no issues, no one raised an issue on number four to my knowledge, or nothing substantive.

[background conversation]

Sarmad Hussein: So I actually had a different comment, before this was added. And that is again, to me this is upside down. Or actually the first bit is redundant and it's actually throwing, it would potentially throw a reader off. Where it starts with talking about WHOIS policy where we've actually got nothing to do with WHOIS policy or nothing to do with policy. So we should strike off that portion, that "in addition to WHOIS policy, we also want to do outreach." We should just say that we should just do outreach. Because when you start reading this you start getting confused whether this is a policy recommendation, so just clean it up a little bit.

Kathy Kleiman: Actually I wouldn't strike it. I drafted this sorry, and then somebody attached the "ongoing program" to it. No, we had said that one of the things that we want to make sure happens after we dissolve into the air is that you don't have to follow, law enforcement doesn't have to follow GNSO.ICANN.org, but that ICANN will have the affirmative obligation to

go out and say "hey WHOIS policy issues are being evaluated and we want you to know this," and specifically law enforcement and data protection commissioners we were flagging that we wanted that outreach.

In fact, we promised to provide a list, I forget in which, maybe the senior staff, a list of law enforcement agencies that Sharon has already communicated with to make sure that they're on the list to flag when new things happen so that we can get their comments. Again, so they don't have to kind of follow in the background everything ICANN is doing for three years.

So then we're actually talking about two things here. We're actually talking about involving community in policy process and just general outreach to consumers. The way I was actually reading this was that we actually are just doing an outreach to possible stakeholders who use the service to tell them that this exists. But if you want to bring in a separate focus on getting more stakeholders involved, and the relevant stakeholders involved in the policy development process, that could be a separate recommendation.

Kathy Kleiman: Alright.

Bill Smith: Bill Smith. I come back to I don't believe we have, I haven't seen any written comments on number four. I don't recall any verbal comments on it. And I am wondering why we are changing it.

Kathy Kleiman: Then let's go back to the original language.

[background conversation]

Kathy Kleiman: Okay. Thanks Alice. Okay, big picture, is there anything else to cover in terms of the recommendations, or anything on the findings? Anything else on the report that anyone would like to mention? Appendices? Has anybody in the universe read our appendices? Just wondering.

Bill Smith: Yes. Some people in the BC have and there are some specific, well there's been some specific discussion on it. I don't actually – all I know is I've seen some messages fly by. I haven't actually read them.

Susan Kawaguchi: This is Susan. They really thought it was a good letter, a good evaluation compliance and we're actually planning on, I think they're going to take some action, PC action of – their comments or something will incorporate that.

Kathy Kleiman: Great. Let's see, so as a process matter Alice is going to write up kind of an Action Item list of what we've all committed to doing, so we'll all be reminded of it after we leave. We've got certain, a few drafting issues I think left from some of the findings. On chapters, in addition to Seth and Omar reviewing the whole report, is it a valuable suggestion for us each to go back to our own chapters, in light of what we've heard from the community, and offer, let's make Seth the pen holder if that's okay, and offer Seth edits that we think might clarify things we've said. Would that be valuable Seth?

Seth Reiss: Yes.

Kathy Kleiman: Okay.

Seth Reiss: Omar and I will do your edits.

Bill Smith: How would you like those…

Seth Reiss: We will incorporate those.

Bill Smith: How would you like those encoded?

Kathy Kleiman: Okay, so that's great.

[background conversation]

Kathy Kleiman: What language would you like them in Seth?

Bill Smith: I should note Clingon is not yet in Unicode, I believe.

Kathy Kleiman: I'm sending it to you in lisp.

Seth Reiss: Just send it to us in….

Kathy Kleiman: Let me explain the problem that happened. And that's that some of us
                                 we're using Shareware and it was an enormous document and it wound
                                 up creating problems within the document. So that Alice wound up
                                 holding the pen because I was mucking up the document every time I
                                 opened it because it was so big at that point. So I think if we're just
                                 looking at our own individual chapters and we cut and paste and send
                                 the edits to you as tracked changes, and either you or Alice hold the

master document. Does that make sense, that we not circulate the master document across the universe for us to edit it individually?

So you'll redline, but…I think that will save your document. But when we see it from you, we'll see the redlines, is that right?

Bill Smith: So another suggestion would be to save things in pdf, the redlines in pdf, to make those available. At least people can read them then.

Seth Reiss: So you freeze them into pdf after we redline.

Bill Smith: You make edits, whatever, you maintain the master document. Save it as a pdf and distribute that. That is a way to have a more controlled edit on a large final document in my opinion.

Kathy Kleiman: I think that makes a lot of sense and I think it will save a lot of heartache down the line. Poor Alice I think was doing a lot of edits to the document as it did funny things. And thank you to you and Omar for doing this, this is huge. Our first call, two weeks. Two weeks till the next call. All the comments will be in, including comments from ICANN staff by the 18th. And we know some big comments are coming in from the community, so at least we've been told. So I'm not sure whether they've been submitted already.

Alice will give us the list. Anyone who's drafting recommendations first draft also due. So like for the IDN recommendations, first draft also due at the call in two weeks, as well as any other recommendations that are being drafted. Anything else anyone would like to talk about? Go ahead Bill.

Bill Smith: Could we perhaps run through the recommendations as we've, with the highlights and the edits, just very quickly in order, or in some manner, just so that we can see what we have talked about and see if there are any substantial issues, which we can then push off to somebody else or say "nope we all think that ones pretty good, pretty good, pretty good."

Kathy Kleiman: Or completely disown everything.

Bill Smith: Well that's true too.

Kathy Kleiman: Great. This is the single WHOIS policy. As I understand it and jump in, we're going to clarify to make sure that this is an administrative function and not a policy making function.

Bill Smith: Right and could I suggest, as a suggestion, instead of "define," "codify" or something like that?

Kathy Kleiman: "Is poorly codified," I like that word. Anybody….

Bill Smith: It's just saying it's not written down very well.

Kathy Kleiman: Right, good. I like it.

Sarmad Hussein: Just reading the title, "Single WHOIS policy" may suggest that there are multiple WHOIS policies.

Kathy Kleiman: Ah, "Single WHOIS policy document."

Sarmad Hussein: Yeah, so something to that effect may be better.

Kathy Kleiman: Good. Alice did you get that? On the recommendations – I think the committee, you've got another committee that's been created to just look at findings and recommendations and put them together. Who's on that committee? Me, and who else? Alice who's on the committee to work with the findings and recommendations, incorporate the findings? Sarmad is on it…

Alice Jansen: Kathy, Susan, Sarmad and Michael.

Kathy Kleiman: Okay, so we'll do that section and give it to you. Let's see the WDRP, first thing we're going to maybe combine it into data accuracy recommendations? And so reorder it and make sure it's clear that the alternative, if a new policy is developed it's a PDP. Everything is written there. Do you want me to summarize or should we just read it with Alice.

                                     Could you go onto number three please. Lot's of notes here. Just nod when you're ready to go on.

Bill Smith: On that one, I believe we had discussed this earlier in the week and said that we should perhaps make that our first one, our first recommendation.

Kathy Kleiman: Yeah is that on there?

Sarmad Hussein: This got divided into two recommendations didn't it?

Bill Smith: Okay, but we said the strategy goes up.

Sarmad Hussein: Goes up and there's a separate one on compliance.

Kathy Kleiman: Alice is that in there? I don't see that there in the comments. Probable recommendation number one, or should we just say recommendation number one? Recommendation number one. Okay. I think that's fine. Okay, who's holding the pen on this one?   On looking at strategic priority?

Susan Kawaguchi: I don't know that anyone's holding the pen.

Kathy Kleiman: Or thinking about it, coming back with the draft?

Susan Kawaguchi: We wanted to see the comments.

Kathy Kleiman: Okay, does somebody want to take this on as one, it doesn't look like there's a lot of redraft, as one to think about based on the comments?

Sarmad Hussein: Actually there would be significant work here because this is going to be the first recommendation and this has to be totally rewritten for strategic priority because only the first sentence is going to be retained. The other is going into the compliance one. So this really has to be

rewritten and it's going to be the very first one, so it's going to be probably one of the most important redrafting things.

Bill Smith: I propose Emily.

Kathy Kleiman: Okay, I agree. Emily gets to work on that. Although people loved it the way it was written. So we do need to acknowledge that. It was kind of a universal responsiveness to this one. So building on that. We'll wait for Alice to come back and then we'll go on to number four.   I'll just summarize number four. The outreach we edited and then unedited it. Number five please, thanks. Should we note in data accuracy that we're going to move the current recommendation two to here, which is the WDRP? Anybody object to putting it after nine? Okay. Alice, we're going to move recommendation two to recommendation, we'll call it 9A for right now. It will go in after recommendation nine.

Sarmad Hussein: Actually these things I think we'll need to probably sift through and see how the sequence should work out. So I generally agree that it should be here. The compliance thing should come here as well. I was actually thinking some of the IDN, or IRD recommendations should actually be under the accuracy as well. So I think this should probably be a task we should undertake, not now, but perhaps as a group, maybe as a smaller group which can recommend sequence of these recommendations. And then everybody can perhaps comment on it.   But I think this is going to be a significant exercise just making them…

Kathy Kleiman: Okay, I know this one we had talked about. So I think that's a good idea. Any other, could you go back up, so just looking again, five through nine and then if you want Alice to page down and look at some of the edits. Did we give a person the pen on the data accuracy recommendations? Does somebody want to take the lead on the data accuracy, the little bit of wordsmithing that's there. We'll give it to Emily. No we won't. Susan, do you want to take a look…

Susan Kawaguchi: Which number is this?

Kathy Kleiman: This is five through nine, just some of the small amounts of clarification of wording on the data accuracy.

Susan Kawaguchi: Sure I can work that.

Kathy Kleiman: Okay. Susan will take that Alice. Privacy/proxy services, I think we gave that to…

Susan Kawaguchi: Yeah, there's four of us.

Kathy Kleiman: Okay, ready to go down to privacy? Bill, let me know what we should be looking at here or can we page through this.

[background conversation]

Kathy Kleiman: Okay. A gang of four. Okay, can we go down to proxy then.

Susan Kawaguchi: We're doing that. That's part of it.

Kathy Kleiman: Same thing. You got it all. You're lucky. Who's got recommendation 17, that is up there.

Bill Smith: That would be Emily.

Susan Kawaguchi: Yeah, she volunteered for that one.

Kathy Kleiman: Okay. And internationalized registration data is me and Sarmad and Michael.

Sarmad Hussein: Yeah. So I guess the three of us who originally drafted them. And if you want to join the group, you're very welcome.

Bill Smith: You were waiting for completion of input right, comments?

Sarmad Hussein: Yes. So we'll react to the comments, yes.

Kathy Kleiman: Makes sense. And then the last group will be a small group to look at reordering per the recommendation of Sarmad. I volunteer.

Sarmad Hussein: I think probably the group which is doing the summary, the executive summary restructuring should probably take a look at that as well. That's Michael, Susan, Kathy and myself I guess.

Kathy Kleiman: Alice could you add reordering, or possible reordering to our mandate.

Sarmad Hussein: We'll be looking at these things in any case, so.

Kathy Kleiman: Does that wrap it up? Anything else we should be talking about? Are we allowed to finish early.

Male: Yes.

Susan Kawaguchi: Definitely.

Male: You get a special…

Kathy Kleiman: A brownie. Well I just wanted to add to Emily's comments that I thought this week went phenomenally well and that our work was, for an ICANN environment our work was awfully well received. It made me actually wonder what we were doing…no. So congratulations everybody. From the GNSO side I got great comments about our GNSO Council presentation, our public forum presentation.   People were really pleased that we took the time to explain everything to them and took the time to work as hard as we did. Any other comments that you'd like to share that you've heard from your communities.   I'm sorry, microphone please.

Female: Just an FYI, I've just received the transcript of the Board meeting, so I will forward that to the list right away.

Bill Smith:	I again think we should thank Alice and Olof and Denise as well for the work that they have done. I thought it was very appropriate for Emily to bring that up in the Board meeting and to commend ICANN, the corporation, for the support that we've received and their willingness to be open, transparent and work with us. So that's, I just want to make sure that people know that, and thanks again.
Male:	Should we have an acknowledgment section in our report?
Bill Smith:	I think we should. I think that would be a very good thing to do. Well if we do, we just need to make, I think it would be very good if we made the acknowledgment to ICANN, basically what Emily was conveying to the Board.
Kathy Kleiman:	"We extend our heartfelt thanks in particular to Olof Nordling and to Alice Jansen for their outstanding support, good humor and commitment. And to all of the members of the ICANN community who contributed comments during the consultation."
Bill Smith:	I will put Denise's name in. I also think we should say ICANN the corporation. I believe that's important.
Kathy Kleiman:	Seth, I think you get to take that. This is your…

Bill Smith: Because ICANN gets a bad rap a lot of the time, and I'm guilty of it. But they did a fabulous job here.

Kathy Kleiman: Indeed. ICANN the corporation. And add Denise, Denise's name to our thing.

Alice Jansen: And on behalf of staff, it's been a pleasure and an honor to support you.

Kathy Kleiman: Denise, we finish our report at the end of April and what happens after that? I know we talked about it a little bit.

Denise Michel: So, presumably Emily as Chair would email it to Steve Crocker as the Board Chair and say "We hereby submit our final report as required by the Affirmation of Commitments," and then we take it from there.

Kathy Kleiman: And it goes out in public comment again?

Denise Michel: We immediately put it up for public comment on behalf of the Board. And I'll keep you guys apprised as work goes forward on that.

Kathy Kleiman: Can we submit our own comments saying it's a great report.

Denise Michel: You could. There's nothing to stop you.

Bill Smith: Yeah nothing. If we want to, we as a group, an ad hoc group might want to respond to come comments that come in at that time. But we may not. I just, if comments come in that are substantially different from the ones we receive now, that's all I'm suggesting is that we may want to weigh in back to the Board and say "We either agree or disagree with some of this stuff."

Kathy Kleiman: I think that's fair. We might have to set up our own teleconference at that point. And I wanted to extend my own personal thanks. We've had some wonderful moments. We've had some difficult moments. I know I've been part of both of those. It has been a pleasure and an honor, as Alice said. It's absolutely wonderful to work with passionate people at the top of their fields as we bring all these ideas together. And I never expected the community to embrace, as warmly as they did, what we presented. A tweak here, a tweak there, but overall for an issue that has been as – remember we said we were going to try to untangle the knot that's been here, and I think we've done a great job of that. So my deep thanks to you. And my great hope that we will continue our friendship long after this process is completed.

Sarmad Hussein:	Before we conclude, I wanted to refer back to that presentation done by [Soca] representative on levels of accuracy. And we at some point decided that we may want to, or there was some comments on that we may want to classify or categorize accuracy in a similar fashion where we can break the problem down a bit. I'm not sure whether we are still going to go back and try to do that. It could be a useful exercise because I've heard extremely good feedback on that particular classification. And so sorry to interrupt the closing remarks, but just remembered that and wanted to bring that up.
Bill Smith:	I second that. I've heard very positive things. I'm not suggesting we necessarily put it in the report, but we might, I don't know reference, put a pointer to it or somehow if it's on a website, as an example of some creative thought that has gone into some of the issues. That's all. Because from my perspective it received very positive reaction in the meeting, in the comments I've heard afterwards.
Kathy Kleiman:	So Alice, the suggestion is a one week deadline for those people making changes to the chapters, the findings and the recommendations to get them to Seth and Omar. One week may be a little hard. We'll try it one week and a day or two.
Seth Reiss:	I understand. Or if just let me know what's going on, and if you don't think you'll get to it let me know that as well. And then maybe we'll pay extra special attention to those chapters.

Kathy Kleiman: We start on the process. The chapters may take longer than some of the individual recommendations or vice versa. That my opinion.

Sarmad Hussein: Would you prefer getting partial reviews on a rolling basis or you would want to go through, us to go through the whole chapter and then send something once?

Seth Reiss: I think I'd like to wait till the chapter is done because as I receive a chapter then I think we can do our work on that chapter. I'd rather avoid a situation where we're working on the same thing at the same time.

Kathy Kleiman: It sounds like a worthy goal to [import]. Any other closing thoughts, remarks?

Bill Smith: Thanks to Kathy.

Male: Off the record, Mr. Putin is also satisfied.

Kathy Kleiman: Is anybody still around on Friday?

Susan Kawaguchi: Well I'll be in Costa Rica but not here.

Kathy Kleiman: You won't be here.

Susan Kawaguchi: I'll be driving to the beach.

Kathy Kleiman: See you at the Gala.

[End of Transcript]