ABU DHABI – ICANN GDD: Thick WHOIS Implementation Review Team (IRT)
Monday, October 30, 2017 – 12:15 to 13:15 GST
ICANN60 | Abu Dhabi, United Arab Emirates

UNKNOWN SPEAKER: This is the ICANN60, ICANN GDD Thick WHOIS Implementation Review Team meeting, on the 30th of October 2017, from 12:15 to 13:15, in Capital Suite 7. [AUDIO BREAK]

DENNIS CHANG: So it's one minute to start, so we'll give it a couple more minutes and then we'll officially start. [AUDIO BREAK]

Yes, this is the Thick WHOIS Policy Implementation IRT meeting scheduled for 12:15. [AUDIO BREAK]

Feel free to take a seat at the desk. Make yourself comfortable. This is a large room and we have a very small IRT today, so. [AUDIO BREAK]

All rightey, then. Let's get started. Welcome, everyone. This is the Thick WHOIS Policy Implementation IRT Meeting; IRT being Implementation Review Team. And as everyone knows, we have a Thick WHOIS Policy Implementation that's going on right now. We'd like to give everyone a quick status of what's going on and also look at our schedule and the plan. So before I get started

here, maybe a quick introduction of everyone. If you're an IRT member, please identify as such.

My name is Dennis Chang. I'm GDD Services and Engagement Program Director at ICANN.

MARC ANDERSON: I'm Marc Anderson from Verisign, and I'm one of the IRT members.

ROGER CARNEY: Roger, GoDaddy; Roger Carney, currently with GoDaddy, and I'm one of the IRT members.
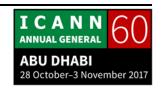
UNKNOWN SPEAKER: I just moved to a chair.

ALEX DEACON: My name is Alex Deacon, but I'm an observer here.

THEO GEURTS: Theo Geurts, Registrar, IRT member, thanks.

UNKNOWN SPEAKER: Hissan [inaudible], Pakistan.

DAVID MCGILL: Sorry, David McGill from ICANN, observer.

MERT SAKA: Mert Saka from ICANN.

LINETT NARDONE: Linett Nardone, ICANN Org.

DENNIS CHANG: Is there anyone in the back like to introduce yourself? You're welcome to. Again, let's get going. Again, welcome and I'll start with an Agenda. So today at this IRT meeting, we'll look at our status of CL&D; transition for .JOBS and the schedule for .JOBS, and .COM and .NET, and the schedule for that, and we're going to talk about the Board discussion that was just had yesterday and how that would impact us. That will be the main part of our meeting.

So, let's first talk about the CL&D part of this policy. The Registry Registration Data Directory Services Consistent Labeling and Display Policy implementation has been completed and that's the good news. It was effective on 1 August 2017, and originally, the recommendations of this policy was adopted by ICANN

Board on 7 February, 2014 and we have announced this policy and posted it on 1 February, 2017. So announcement from 1 February 2017 to completion by 1 August 2017, six months. It's a job well done for everyone. Congratulations to the implementation team and the IRT.

Now, we're going to talk about the status of .JOBS. .JOBS implementation is in progress as planned. Transition began on 1 August 2017 as planned and monthly transition progress metric reports have been received for August and September, and no issues are being reported. As of the 1 October 2017 report, 8% was completed as transition and the next report is expected tomorrow actually, and we expect to see the percentage edge up. So everything is good with .JOBS, and if you remember this schedule, this was the original schedule that was adapted when we announced, and the implementation is tracking to this schedule as planned. Any questions on .JOBS? No? We're all good, right?

Now let's talk about --

UNKNOWN SPEAKER: Dennis, would you mind changing the screen, shuttle the slide? It's supposed to be Adobe Connect room. It's really hard to read in the back.

DENNIS CHANG: Feel free to come up and sit closer, there's plenty of room also. Okay.

This is a rather busy chart, but I don't know if I need to explain to the audience here. We have been showing this chart on every IRT meeting since the adoption and announcement on 1 February 2017 and it hasn't changed. So we're tracking exactly to the report, to the schedule.

Next, .COM and .NET.   The status with these two gTLD operations; we're still doing operational testing and evaluation, and as of 13 July 2017, this is the last report I received from you, Marc; I don't know if you have any more statistics, but we have a good amount of transaction happening on OT&E, and I suspect that we are continuing to do that.

The production environment has not been open yet per the extension that was granted at the request from Verisign for 120 days. So the new date is the 29th of November, 2017. We'll talk more about this on the next slide. There'll be more interesting -- I've a question for Theo and Roger. Have you been testing on the OT&E for .COM and .NET?

THEO GEURTS: So -- and this is Theo for the records. No, we have not been testing it. We are sort of -- just strictly speaking for myself, we have been very busy with the GDPR as a whole. That's currently a priority for us. But we will look at it later, at some point. Thanks.

DENNIS CHANG: How about you, Roger?

ROGER CARNEY: Yeah, we actually did testing earlier when it was opened up. We haven't done much as of late just because we didn't need to. So… but yes.

DENNIS CHANG: Yeah, I suspect technically is the same as .JOBS so there is no issue, but it's good to hear from the Registrars.

So let's talk about this. The Registrar Stakeholder Group -- and this is sort of the continuation of the last time we met at our last ICANN meeting, Roger, that you said that this would happen and it did. The Registrar Stakeholder Group has submitted their request for a 120 day extension to the two policy effective dates as -- and I remind you, this particular policy has two effective dates; one for new registrations, and the other one for existing

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registrations. So for the new registrations is the one made 2018, and 1 February, 2019 is the completion date for the existing registration to be transitioned from Thin to Thick.

Now, just yesterday on a public ICANN Board meeting, if you were listening and if you were attending, you've heard that the Board decided to defer the compliance enforcement for 180 days. However, no change to the policy. So, knowing that we're going to be looking at this schedule, this is the last update I made after the 120 day extension was granted which shows your transition starting on 1 December of this year but ending in February of 2019.

Now, the reason for the Registrars asking for the extension to the effective date, which was one of the effective dates to make the conversation easier, was because that it allowed for 14 months of transition for the existing registration. And if I go back to another schedule for .JOB, this was the original transition duration and it has 18 months, but with the 120 day extension granted for the start of the transition, it would cut that to 14 months.

So there was one reason the Registrar asked for 18 months for the transition duration, and this effectively cut it to 14, and the Registrar was supposed to be requesting to recover those other months so they would have 18 months, plus of course the GDPR

issue being complicated, as well as the RRA between Verisign and the Registrars not having been resolved. So, this is why I think the Board has decided to allow the extension to the compliance enforcement for another six months, basically 180 days, right?

So let me open it up for discussion here; now you have all the facts and we are on the same page here. I want to talk about what that means and how we should go about the implementation together as a team.

ROGER CARNEY: This is Roger. Just one question. I've heard different reports on the extension being for COM and NET, or for COM, NET, and JOBS. So just a clarification, which TLDs does it actually affect?

DENNIS CHANG: So we will have to wait for the Board resolution to come out, but as far as I know, from what I heard yesterday, the Board resolution is intended for the policy itself, not specifically Verisign or specifically calling out for any TLDs, right?

Now, that being said, what they're saying is they're going to basically defer contractual enforcement, so that does not mean that we are changing any days. We're free to proceed as we

would like or as fast as we can. For example, if the RRA issue is resolved quickly and we can get this done earlier, that's fine. It's just that the compliance itself -- so if .JOBS for example is a good case study, .JOBS as I expected to continue without delay, as it had been, and it will finish probably earlier than 1 February, 2019 and they'll be done. So the fact that the compliance, contractual compliance does not get it effected six months later is inconsequential. Right?
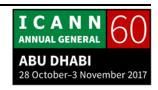
You have a comment about what's going on here? What is your intention about how to go about this?

THEO GEURTS: So really quickly here, and this is Theo for the records. So from our perspective as a European Registrar with many European registrants, we are still reviewing on our legal options here. So we are still holding off a little bit here. So I think that's basically the bottom line. Thanks.

CHRISTOPHER WILKINSON: Thank you. Christopher Wilkinson for the record. So I understand the difficulties and indeed the scale of migrating the .COM WHOIS from a Thin registry system to a Thick registry system. That is not my concern and I'm not -- if it takes longer, so be it. What I don't understand is the reference to GDPR

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because we have known in considerable detail what the GDPR would deliver, I would guess for at least two years. I don't understand, I wonder if somebody could explain what the relationship between this deferral is and the GDPR.

THEO GEURTS: So, and this is Theo for the record. That's a very good question and we've been struggling somewhat with it, and I don't want to say it's a moving target, but for those who paid a little bit of attention, last week the Dutch DPA came out with a decision regarding .AMSTERDAM and .FRL, and they basically said, "Okay, publication of WHOIS data is no-go when it comes to PII." And they also added something interesting and that is consent is not an option.

Now, during my talks with tons of lawyers in preparing for the GDPR, consent was always for me like a last resort option to get into a legal agreement with our registrants to move the data. I mean if we could get consent from the registrants to move the data to wherever the data needs to go, in this case Verisign USA, then we could at least get consent. However, the Dutch DPA said last week, "Consent is not an option as it is not freely given."

So I can't go really far into it because I'm still wrapping my head around it, but it seems that under the current ICANN structure, when it comes to moving data outside of the European Union, our options are becoming very, very limited, and you're right, the GDPR has been announced in April 2016 and we are now looking at the effects. And quite frankly, what has been said by the Dutch DPA, and I am a Dutch Registrar, so I'm probably affected very directly by their opinion, I still need to review it, and it's really fresh what they've been coming out with. Thank you.

CHRISTOPHER WILKINSON: A supplementary comment, Mr. Chair, if you allow me. The large group I think has recommended to ICANN that in any case privacy policy in our environment here, and especially in the WHOIS and its excesses, it should be based, standard globally based on the best practice.

I fully understand that particularly with legacy, big legacy registries like.COM, it's extremely difficult to do one thing for one group of registrars and another thing for another group of registrars. I can see that. Thank you, it's clearer to me.
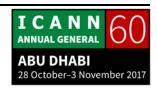
DENNIS CHANG: So Theo, let's just make things very clear. When Verisign first came to ask for an extension, the cause that was cited was, the RRA, they say the agreement, contractual agreement between the Registry and Registrar hasn't been completed and therefore needs more time. So that's one obstacle, right? One factor.

The other is from the Registrar's point of view, the reason that the Registrar requested the extension was for the duration that was cut from 18 months to 14 months, so we captured that duration. The Registrar had actually asked for a 120 day extension that matches the Verisign request. So that's two.

So first is the RRA. Second is the time duration of the transition. Now, the third is the GDPR, right? So what I'm hearing from you, Theo, is that even though the duration and the RRA issue are resolved, you're not able to move on with the implementation. Am I hearing that correctly?

THEO GEURTS: So yes, that might be an outcome that we, Registrars, are facing and I don't think it's a solely European problem. I think it's every Registrar in the world's being affected by this who are dealing with European registrants. And I think most of the Registrars out there are dealing with European registrants. So that is going to be a global issue.
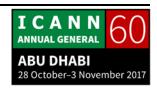
If we talk a little bit about the contract issues that we are having, and I'm not going into the weeds here, but that is currently we are still waiting on having that resolved and how we should move forward with it under the GDPR. Because if you look at our current contracts -- how to put this nicely, very diplomatic -- they are not very GDPR compliant so to speak. And, I can understand that. I mean, some of these contracts are really, really old; some are newer, but the reality of the GDPR and more of the data protection laws around the world, that reality is finally sort of catching up with ICANN, and let's be very frank here, the data protection loss, that is an ever expanding issue which we are facing with in ICANN.

So I think we need to sort of get real with the new reality which we are facing. But again, and coming back to your question, Dennis, I'm not sure where I, as a Dutch Registrar, are going to end up. I don't know. I hope there is some solution somewhere. But again, like the decision of the Dutch DPA is putting me into a impossible position. Thanks.

DENNIS CHANG: I understand. Marc, from your side, do you think that RRA should be resolved without the GDPR issue being intermingled? It sounds to me like…

MARC ANDERSON: This is Marc Anderson for the record. I'm not exactly sure what you're asking, but I think I can say from a little bit of a background for everybody in the room, the previous RRA, I would say the existing RRA was written for a Thin Registry, as Theo pointed out. This is an older TLD and they had an older RRA in place. So following the process for modifying an RRA, we submitted the new RRA adjusting it for the new reality of a Thick registry. Registrars expressed concerns over that, I think as Theo nicely summarized for us, and that's our current state right now where we have an ARRA that's with ICANN staff waiting action, but it's in limbo right now waiting for any updates from staff.

PAT KANE: Dennis, if I can just add a little bit to that for some clarity. So the RRA approval process is that ICANN actually approves the RRAs and basically they put them to the Registrars for some input and the registrars -- they used the word 'rejected' in terms of the RRA, but they're really not in a position to do that, they're actually in position to give information to ICANN about what they don't like or what they like.

And clearly, we're at an impasse in between what Verisign believes are the protections that we need to become a Thick

Registry under GDPR; we've taken a look at it, and some concerns around the GDPR that Registrars have in making this big step. So the decision really is in the hands of ICANN right now. So ICANN can accept the RRA or they can reject the RRA, but it's probably bad practice to accept that or reject that without a deep conversation with the Registrars, should probably include public comments.

So I think we're kind of stuck in a situation where ICANN needs to make a decision as to where we're going to go with this because the Registrars in Verisign, even though the resolution says that we are going to continue to talk, we're at an impasse. We've put on the table what the RA should look like; the Registrars have said their objections and if there is changes to the RA, ICANN needs to come back and present some red lines to that because we've put it into ICANN's hands.

If they want to change, we're waiting to red lines. If they want to put it up for public comment, that's what we're going to need to do. But this 180 day extension is to get through that process not necessarily for the Registrars and for Verisign to continue conversations because we've made our positions very clear as to where we are.

MERT SAKA:	Excuse me, this is RPM speaking. Can we have your name and affiliation please for the record and the online users?
PAT KANE:	I apologize. This is Pat Kane with Verisign.
MERT SAKA:	Thank you, Pat. And while speaking, can you please speak to the microphones? Our online users are saying they cannot hear well. Thank you.
THEO GEURTS:	Thank you, and this is Theo for the record, for the people in the chat room and the people here in this room. Thank you, Pat, for clarifying that. I think that's really important. Also to build up on this a little bit more; when we are talking about from a contractual point of view, and this is an ongoing process, where does ICANN stand in this contractual process?
	We haven't figured it out yet because the ICANN community has to come up at some point dealing with this; we often hear now and then, is ICANN a data controller or are they not? Now, that is a very basic question which the community still has to figure out, but as soon as we have an answer to such a question then

we can move forward on a contractual basis. Because then it is clear how we can set up all these agreements. Thank you.

CHRISTOPHER WILKINSON: It sounds to me as if in addition to ICANN, Verisign is well on the way to becoming a European registered data controller, but that's just reaction to what I've just heard. That was Christopher Wilkinson again.

DENNIS CHANG: So what I'm hearing -- this is Dennis Chang, what I'm hearing is, Theo, from your perspective, the steps in the sequence of how we can resolve this and make progress on this project, is that we have to as a community figure out some sort of a role that ICANN plays in this data. Then, with that information, we can affect the -- know what to do with the contract, the RRA. Is that what I am hearing?

THEO GEURTS: So, yes. And this is Theo for the record. I think this is a very complex situation that we are in right now. But because due to the nature of ICANN having a multistakeholder model, with several stakeholder groups, it is basically the stakeholders who set up all the policies and therefore contractual regulations.

So in my maybe somewhat simplistic view, it will be up to the ICANN community to solve this because we can't go to the Board and come down and ask them for a decision. They can do that under the current Bylaws. So it will be a stakeholder process at some point anyhow. At least that's my understanding, but I could be wrong. So I stand corrected. Thanks.

DENNIS CHANG: Thank you for that, Theo. Think I have a better picture of the situation. So this IRT has a very limited role, a limited and defined scope within what we can do. The IRT and this implementation can only implement what we're given, and the policy has already been stated, and the policy is the policy; there is no change now, and I don't expect any changes for at least I guess another 180 days, and then we can't really get involved in trying to solve the GDPR issue.

I think there is a lot of other activity that's going on outside of this policy, correct? So as far as I can see that this policy implementation will have to follow the other things that's going on. Barring the .JOB that continues to make progress, as far as .COM and .NET we're going to be basically waiting and I'm going to have to hear from you on any progress that you make.

ROGER CARNEY: This is Roger. Pat's point still needs to be resolved as well. Is ICANN going to approve the RA changes or are they going to reject it, negotiate? How is that going to work? That needs to happen.

DENNIS CHANG: I think Theo suggested or maybe, Pat, I heard from you that public comment may be the correct way to do this, but again, resolving the RA issue is not within the scope of this policy implementation and there is other activity going on. You're involved in that, Pat, right? Yeah. So we'll have to wait to hear from you on how that comes out.

THEO GEURTS: Yes, and this is Theo again for the people who are not recognizing my voice. And you're right there, Dennis. This is not up to the IRT. I mean this went through a PDP process; it was consensus based and we came up with a recommendation. It was approved by the Board, albeit it's very late or very long ago, but this is the process, and I can understand that maybe some people are frustrated a little bit at this moment like how this is going. But it is not up to this IRT to come up with anything different. That is not up to us. We should follow the process. Thanks.

DENNIS CHANG: Yes, I agree fully with what you just said, and that's why I wanted to make sure that we are all on the same page as the IRT on the activities that we had planned going forward. So let me just look at my community Wiki, which we have been using, and for those of you who don't know, we have a community Wiki which is a public page where we do our work and where we plan all our meetings and capture our notes.

So this is the 30 October, 2017 meeting, the ICANN60 meeting. The next one, we have our couple of meetings that's pre-scheduled, 21 November and 19 December. So just wanted to give you an expectation.

What we'll do is, we'll track the outside work as it goes and we'll communicate via email as we always do, but we may not necessarily need meetings if there is nothing that this IRT can do. The reports are flowing and I'll communicate with you all, report to you in the .JOBS status and the tracks and if there is any technical issues with the OT&E or whatever. Then we'll get on that, but other than that I think we can pretty much pause the meetings for now.

So we'll keep it on the schedule, but as we get closer, maybe a couple of weeks out, you'll probably get an email from me

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whether it is on or off. So go ahead and communicate with me proactively if you need an agenda item for the IRT and need a meeting. That's my request.

Is there anything else that you have, you want to add to the meeting?

No, no other comments? Okay then, I'm going to conclude this meeting. Thank you everyone for attending. We'll see you again later. Bye-bye.

[END OF TRANSCRIPTION]