

**Transcription ICANN Los Angeles
Privacy and Proxy Services Accreditation Issues PDP working group Update to
the Council
Saturday 11 October 2014**

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Jonathan Robinson: We could close that session then and prepare for the next. If you would give an indication from the back when you're ready to go with the recording.

Thanks, we're good to go. The next session is on the - is a report from the Privacy and Proxy Services Accreditation Issues PDP working group.

And I think Don is here to give us a report. Hi Don; welcome. So I'll have it straight over to Don Blumenthal.

Don Blumenthal: Appreciate it. I apologize if my voice is gone. We spent seven or eight hours yesterday in the pilot of face-to-face, so it's been an intense couple of days already.

Kind of like last time, looking around the table and the audience we could probably do a - continue the face-to-face meeting given the number of people on the working group who are here, including Thomas who was our facilitator yesterday, whose voice might be in worse shape than mine. I'm not sure.

In any event, since the last time we spoke in London we have - we've gotten into I think, the most interesting - what has turned out to be the most interesting and (unintelligible) the most important part of proxy/privacy.

You know we spent about time talking about the issues of Relay, a person trying to get information to the registrant who's using proxy/privacy - the proxy/privacy service -- I'm going to be sloppy on terms here -- or Reveal the

situations where the information behind the proxy/privacy registration is made - is released.

We've split Reveal, which is a traditional term into two categories, disclosure which is where the information is released but only to a requestor and revealed, which is where they -- I'm sorry -- and publication, which is the situation in which the information behind the proxy registration is posted to the public who is.

Like I said, Reveal - we're working on Reveal currently. We wrapped up Relay a while ago in in theory, but these two topics circle back on each other a lot.

So as much as we've tried to focus on -- oh, thank you. Short break here -- whoa, service. I didn't get this in (unintelligible).

((Crosstalk))

Don Blumenthal: Where was I? So, in any event as you can see on the slides, I think we've covered the - covered; and when I say covered, come to consensus, on some of the fundamental issues.

The requests have to be forwarded, but subject to commercially reasonable measures. Its acceptable say for a proxy/privacy service to have spam filters in place or some other screening mechanism to adjust for where a requestor is clearly just harassing or whatever other term you want to put on it. In those cases, there should be some flexibility to filter.

The other area where we really focused on was issues of say requests from say law enforcement or issues concerning domain name abuse. And when I say requests from law enforcement or domain name abuse I'm talking about requests for - voluntary production.

Obviously a court order is going to trump pretty much anything that we put in place. If the U.S. District Court says produce the information, it's going to happen.

We're also suggesting it to be some kind of standard mechanisms. Not necessarily standardized across the industry, but looking for some suggestions, formats; guidelines so that there's some kind of a reasonable expectation for people who are putting in the Reveal request on how it's going to work.

Now we still have - we are still dealing with -- and I'm going to put a caveat on this -- we covered some of these issues yesterday, but we've not had time to review our conclusions and to distribute them to the people who weren't present yesterday.

So when I say we've come to certain conclusions, this is as of a week ago. Anything we did yesterday is still quite tentative. But we're still looking at issues of forwarding paper requests for Reveal. Is that necessary? And if so, can proxy/privacy service providers charge a reasonable fee for that?

What kind of obligations are there on a proxy/privacy provider to inform the requestor when they've not forwarded or when there's been a refusal to provide necessary information?

Reveal has I think turned in to be more complex than I expected it to be. I think probably because of our - well for a few reasons.

There's a lot of practical elements in Relay and Reveal, and how they work in different sectors. And because of the makeup of our working group we focused a lot on the intellectual property community.

Because of the realities of government we've not had much participation from law enforcement. That's kind of been my job, but I've been out of law

enforcement for a few years now. Well I'm still involved in anti-abuse. The issues there are a bit different.

But the fact is the model for law enforcement and anti-abuse are different and the requirements are different. And a lot of our work right now has been focusing on identifying the different needs, and making sure we cover all of them. Excuse me.

We discussed issues of accredited. Whether there should be some kind of accreditation for requestors. And when I say accreditation I'm not necessarily talking about anything heavy duty. It could be self-accreditation.

You know on some level we focused very heavily on usage of terms of service. Should - to what extent should accreditation systems urge or require proxy/privacy providers to post the situations under which they will reveal -- and I'm going to use the general term -- Reveal or Relay what the baseline that they must do, and then possibly proceed past that or have additional guidelines; additional requirements.

Issue of how requests are put in, you know, outline forms, email. I think we're at the point where we have decided that there must be easy ways to do it. Information must be forwarded. There has to be a mechanism for Reveal.

And I think to be honest at this point where we're drilling down, and part of our job is going to be to decide what is our role and what's the role of implementation going to be; the eternal battle.

We do get into issues of this is how it works. And I think we have to because looking at the real world helps frame out policy decisions. But at times it's been difficult to draw the line on where we stop and the Implementation Team picks up.

We're a little bit behind schedule, but I'm not concerned about that because I think we set a very aggressive schedule up front. I am hoping that we can be writing, if not complete with our draft by (unintelligible).

I think yesterday's session was really very helpful in driving ahead of Reveal and Relay discussions. We have one more major topic to deal with which is termination of services.

I think - well I'm not going to anticipate. I expected Reveal and Relay to be complex, but not as complex as it is. And I'll just add one other plea, although I may have found my source yesterday.

Again because of the makeup of the working group, we have focused on proxy/privacy providers who are affiliated with registrars. Some of the issues that we tackle may play out differently with independent proxy/privacy providers. And that's another gap in our resources.

So if anybody knows of an independent proxy/privacy service provider who is willing to talk to us or even better, join the group, please let me know. We've already planned outreach to law enforcement to try and get them to at least participate on a one-off. I know those people need to find an independent company.

I'll open it up to questions or comments from people who are on the group, and think I'm completely off the wall on something I said.

Jonathan Robinson: Thank you Don. I would like to encourage everyone to ask questions. James, please.

James: Thank you. And I just wanted to say thanks to Don for the update and thanks to everyone who came out a day early, like these ICANN meetings are not long enough - came out yesterday, and I think really made significant progress.

And I say that without discounting that these are very complex issues and we have a long way to go. But I think that we moved down the field quite a bit. And thanks again to Thomas for his work in facilitating that discussion. I thought that was also very helpful. So I guess just thank you is my comment.

Jonathan Robinson: And I would like to add to that just a second here. I think we had a test yesterday of something that could become a model for future working groups. Usually at ICANN meetings we meet in working groups to present and get community feedback; not really productive working group sessions.

Yesterday was a full day of working group work. And I think from what I heard -- I wasn't able to be there the entire time myself -- but from what I heard is that significant progress was made on a lot of issues, which may be easier when you sit face-to-face to each other than if you have a weekly call for one hour.

So this is something that is new for GNSO policy work and could become a model. I think if it pans out in the future as well in future tests that this is a successful model then we should look at this further. Back to Don.

Don Blumenthal: And I'll add to the list, thanks to whoever on staff decided we would be the good guinea pig, because it really was helpful.

Man: Any further questions for Don? Privacy/proxy is very interesting. Come on. If not then let's move on to the next topic. I think we're still behind schedule.