Transcription ICANN Singapore
Prep for WHOIS Studies
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Jonathan Robinson: Great, we're good to go. Mary, over to you.

Mary Wong: Thanks, Jonathan. And even though the recording is on let me just follow up with Ching's point. And I'm sorry to sound like an advertisement for the Monday session on universal acceptance but I also want to highlight that some of the speakers on that panel will come from industry, picking on Ching's last point, we'll have someone remotely from Mozilla and there – we'll also have a representative live from Google and one from Microsoft who can talk to some of the issues that Ching is describing. And it's a non-technical session.

So Whois Studies update, yay, the final two Whois studies that were commissioned by the GNSO Council a few years ago are done as in completed and final. As you know, these last few studies were on privacy and proxy service abuse and on Whois misuse. They were out for public comments around the time of the Buenos Aires meeting. And the final reports have just come in that address quite a lot of the public comments that were received by members from members of the community including a number of GNSO stakeholder groups and constituencies.

They're published on the Website. And I think I have a link to that so hopefully those who are interested in the issues, especially those that gave public comments, can go take a look at these reports.

I'm not going to go through these next few slides but essentially these are a reminder of what these last few studies were about. One, like I said, is on privacy and proxy service abuse and the findings based on the hypotheses that was posed to the research team.

I want to say, again, I think many of you know but not everybody might, is that the hypotheses that these research teams were asked to test were developed by the GNSO. And many of you know this history better than I do, it's a fairly long and winding process of developing, A, what those studies would study. And we ended up with six. And what those studies would study specifically in terms of the hypotheses tested. So this is the one that was for privacy and proxy services and what the researchers found.

They also added on to the study with the GNSO Council's approval and elucidated some more points about it, again, public comments also mentioned that some of these studies were very useful because not just of the findings but because of some of the add-ons, if I might call it.

The last study on Whois misuse, again, both reports have have been published, both published on the same date, the 18th of March. Again this is the hypotheses and what the researchers found both in terms of a general finding as to whether it was true or not and specifically some of the points that they observed as to, for example, the types of misuse and also what were the statistically significant factors that led to those findings.

More importantly I think for the Council and the community today and going forward is the next steps to be considered. And here we've tried to summarize a little bit at least on a very high level since this would be something that you can't discuss and finalize in 15 minutes I don't think – of some of the things to be considered.

So, for example, it's not just those two studies, there were other studies done before that are all listed on the Whois studies page including a registrant identification study, for example.

What are the implications of these findings – all of these findings on ongoing Whois policy work? And in that respect when these studies were first commissioned and begun some of the ongoing work that many of us are conscious of now had not yet started.

The most obvious example is the Expert Working Group on gTLD Data Directory Services, commonly known as the EWG, and they are coming up with the final report sometime this year. You know that there's already been a couple of status reports.

That and a number of other initiatives how would these findings for the GNSO implicate not just further GNSO work if necessary but also more contextually with all this other work that's going on.

And so within that kind of analyses to think about what kind of policy work might be appropriate, might be timely or not as the case may be. And so here are just some possible questions and the last few bullet points that specific working groups or the Council or indeed the community may want to take up to discuss. And that's it, Jonathan.

Jonathan Robinson: Thanks, Mary. So that's pretty clear we've got to take the substantial and output from this work over a number of years and think about where we take this if at all next. I guess one of the questions I'll be thinking about is where we have this discussion. Are there any immediate comments or questions for Mary now? Yes, Maria.

Maria Farrell: Yeah, it's Maria Farrell here. Just I suppose my initial response to the very quick reading of the research is, first of all, that immensely helpful and thanks, staff, for carrying it out and providing it so usefully.

It reads almost like a first year philosophy student – a test of reading or logic because it basically looks at two sets. It says, so, most – so, you know, look at the logic of these two sentences. Most bad actors use privacy and proxy registration services, yes they do.

But are most users of privacy and proxy services bad actors? No, actually generally it finds for the most part they're not. What are the measurable consequences – negative consequences of a publication regime of Whois data? Yes, there are significant and measurable consequences of the publication regime. It leads to spam, it leads to misuse of personal data.

So, you know, those I think are some of the headlines – topics that I would take out of the research and tie them, in fact, to one of the things that Michele Neylon of the Registrar Constituency has been saying over the last number of months which is that there is definitely an issue with the publication regime and particularly when it is in direct contravention of the laws of many of the countries in which registrars and registrants live.

So I take that as a quite useful piece of research, one of many obviously. But I think it's nice to see some numbers behind the – one, the privacy laws of many

of the countries involved here and, two, the arguments in favor of privacy and freedom of expression and personal safety that we in the Non Commercial Users Constituency have been making for a very long time. Thank you.

Jonathan Robinson: Thomas.

Thomas Rickert: I guess the last but one point, and I think the last but one slide, that relationship with the EWG is an important one. I guess that there's no way for us to hold up the crane for the work that the EWG is conducting, although it's not GNSO driven but the question is does the EWG get to know the outcome of these studies and are they going to incorporate that into the body of the work?

Because the two points that you echoed from the study are some which are, you know, backing up similar experiences in other TLDs, for example, with GNIC, the German ccTLD, the accuracy of Whois data has improved significantly when GNIC was forced to display less day by the local data protection authority.

So there is a strong link between what people are willing to give in terms of accurate data and what's being publicized. So I think that definitely needs to go into the thinking of the EWG. And if possible we would have a say in that as well because I guess that's one of the core missions of the GNSO isn't it?

Jonathan Robinson: Mary and then Mikey.

Mary Wong: Thanks, Maria. Thanks, Thomas. If I may take Thomas's point first the EWG is aware of this work in large part because the staff support for both groups coordinate and communicate with one another very much. The thing though is – to remember is that each of these studies from the GNSO are extremely

specific. They're on very specific hypotheses, they're on very specific aspects of the Whois system.

So in many respects it is different from the work of the EWG but there are also some overlaps. And one example of that overlap would be, say, on privacy and proxy services. I think as many of you know that was something that was called out by the EWG in their status update in Buenos Aires.

And they have since done a survey of providers which I believe they are releasing at this meeting – has just been released so I think they'll be speaking to that on Monday I presume.

And in doing that work they worked quite closely with the GNSO working group on privacy and proxy services accreditation issues. And I actually said that all in one breath.

And some of you are members of this group. So there is communication and coordination. I cannot possibly answer obviously as to how much is going to find its way into the final report so that's what I can say about this.

Maria, on the point that you made I think obviously again these studies are extremely specific and so one of the questions that we have here is whether there are areas or issues that are not covered by the studies or that don't demonstrate – or that demonstrate maybe the need for further work. Maybe that's something the GNSO can explore.

Jonathan Robinson: Mikey.

Mikey O'Connor: This is Mikey. So I think Thomas has kicked off a really good conversation which is the coordination of all these orbiting Whois planets. I had a

conversation with somebody on the EWG yesterday and they were saying, "Well, what happens next?" And I said, "Well, there's this issue report that we started drafting in the GNSO and then we sort of parked because we were waiting for the results of the EWG. And the thought is that we will fold those together."

And they said, "Well, what's the status of that report?" And I didn't know. Is our issue report in a state that it can be shared? I'm looking down sort of to – Marika, do you want to jump in on that? I just didn't know.

Marika Konings: Yeah. This is the Marika. The preliminary issue report was published for public comment. And it's still in that state. But as said the preliminary issue report basically just outlines all the work that has gone on on Whois to this date outlining some of the different positions, concerns, you know, options that have been considered in the past.

And the idea is that once the EWG finalizes its work that gets slotted in there as, you know, the additional piece of information that will need to be considered by the PDP working group. So then the issue report will be finalized and sent to the Council.

And I think as we discussed before at this stage, you know, the council may want to – may decide that they want to have another public comment forum on that final issue report or alternatively consider at the start of the PDP working group to open a public comment forum so people can provide additional input on, you know, what is in the report as well as the EWG recommendations that can then can be considered by the PDP working group.

Mikey O'Connor: The question that they were asking was, "How can we on the EWG, shape our results to fit better into that process?" And it, you know, this is back to your

point, Thomas, which is this coordination thing. It seems like we've got an opportunity to do more coordinating but I don't know the mechanism to do it.

Jonathan Robinson: Maria, you wanted to respond to that or…

Maria Farrell: Actually I had a response to a question that Mary asked previously so I can wait if you want to go directly. Thanks.

Mary, so you made a very interesting – asked a very interesting question which I know you've been very kind to do in the Privacy and Proxy Accreditation Services Working Group. And that was, you know, what are the other types of research that would be useful to inform our work?

And I think this goes a little bit to the session we had earlier about the Metrics and Data Working Group and that is good research design can produce qualitative rather than quantitative research – results that are usable but it's quite hard to do. And I can tell you exactly what I have in mind here.

One of the things in the Non Commercial Users Constituency that, you know, that we harp on about a lot is not simply the qualitative sway or the volume of registrants and the number of registrants who may suffer, you know, a small amount of harm from spam. For example, that could, you know, that could be measured in quantitative terms how much misuse of personal data is created by the publication regime.

But what I have in mind and what's difficult to couch in research terms but I hope might be possible is what are the quantitative and, you know, quite substantive harm that a very small number of registrants can suffer because of the publication of their personal details.

And it's one of the things we talked about a lot in the Non Commercial Users Constituency. And we can only really give anecdotal evidence of that which is the modification of the, you know, the personal details are the addresses and contact details of, you know, a woman's rescue center or domestic violence helpline, those kind of things are nonprofits in countries where there are somewhat more repressive regimes that are nonetheless registering any generic TLD because of course it's hard to register in your own country code sometimes.

So I'm wondering maybe, you know, could we at some point work with you on how do we couch the research that is useful and get above our antidotal talk about great harms are done to people who, you know, can risk physical or political violence that because of publication their details in the Whois database so how do we couch some research, that kind of gets at the problem and takes it away from the anecdotal, you know, this could happen to, you know, know, how much does this happen.

Because I think when research is truly quantitative we can lose something and I would like to – but I know good research design can help us get around that issue.

Jonathan Robinson: Okay Mary, brief response and then I think we have to chop it at 2:30, we've got 45 minutes.

Mary Wong: Not so much a response but really just to note that that may be one area. And in terms of these studies at the time that they were commissioned there wasn't even quantifiable data. And so the overriding wish that led to those was really can we even get objective quantifiable fairly comprehensive data at least about specific aspects? And most of the public comments received acknowledged that we've at least achieved that for certain specific aspects.

The other piece of this is that, as I said, all the studies and the hypotheses were developed through that community and so it's not ICANN staff that says, you know, we should go and study that. So there's definitely avenues and maybe that is one of the next steps for discussion as to whether those topics might actually be timely, pressing and appropriate.

Jonathan Robinson: Thanks Mary. If you could keep it brief please and then we'll close things off.

Petter Rindforth: I promise to keep it brief. And it's a soft (unintelligible) to the next issue. But I perfectly agree that, I mean, we have several working groups dealing with different aspects of the same problem or question. And, I mean, the ET&T, for instance. And I would be glad to see if there is anything that is in this report that we can have use for.

So just a quick proposal that if you could make some specific points to the other working groups that are ongoing on topics that could be useful for these working groups that we can actually quickly look at and – to avoid double work so to speak.

Jonathan Robinson: Thanks, Petter. Amr, did you want to – just…

Amr Elsadr: Just a quick clarification. You mentioned that preliminary issue report, is this the post EWG?

((Crosstalk))

Amr Elsadr: You said it's open for public comment right now?

Marika Konings: No, no, so this is Marika. So basically what happened the Board requested a PDP at the same time as they asked the EWG to be formed so we already started the process of the preliminary issue report and when was it published? Over a year ago I believe?

((Crosstalk))

Amr Elsadr: There was one in March of last year.

Marika Konings: Yeah, exactly. So that's the one that has been published and that's now basically on hold until the EWG publishes its recommendations. And when that happens the idea is that gets inserted and is presented to the Council then at the final issue report.

But again to note on this one as this is a Board-initiated PDP there is not going to be an intermediate vote from the Council on whether or not to initiate a PDP. It basically moves straight into developing the charter working group phase basically.

Amr Elsadr: Sorry, I have a slight problem with this because my understanding is that a final issue report needs to be published within 30 days following the closing of a public comment period of the initial – of the preliminary issue report. So having a preliminary issue report published a year ago before the substantive work of the EWG was done in closing the public comments in April of 2013 then not having anymore discussion about what's going to end up in the final issue report, I have a problem with that.

Marika Konings: And this is Marika. I mean, what is going to be in the final issue report is just the EWG recommendations. Like with all the information that is in there we don't make any judgment on whether that's good or bad, we're just saying

these are the EWG recommendations and it's for the working group, you know, to consider those.

As said, you know, it's then at the Council to decide whether they would like to do another public comment forum on the final issue report. But as suggested, I think it would be more useful to use it actually as the starting phase of the working group to get input on the issue report and the recommendations in there than actually on the final issue report itself.

Because the issue report just outlines the issue; it doesn't do anything more than that. So…

((Crosstalk))

Amr Elsadr: …I'm sorry, Marika, but that also determines to a great extent what is included in the charter. When the drafting team starts working on the charter than a lot of what is in the issue report sort of limits a charter drafting team on what they can include.

So it is important to have a public comment period following the findings of the Expert – the substantive findings that have been made since March of last year. And I think that would – I think it would be all right to have a second round of public comments before a final issue report is – before the Council settled on a final issue report.

Marika Konings: Yeah, and this is Marika just to respond and looking at Margie sitting in the room. But my assumption is as well when the EWG, you know, finalizes its report that that will also go out for public comment before that presumably is submitted to the Board…

((Crosstalk))

Jonathan Robinson: Okay, so I have a suggestion. If you guys could just take this up (unintelligible) to make sure that you are either happy with what you understand to take place, Amr, or not and if not bring it up in the wrap up, bring it back to us in the wrap up for further action. I don't want to bury it but just want to make sure that it – you might, with a conversation with Margie, Mary, Marika and just settle it or not and if not then bring it back to us in the wrap up please.

All right we've got a short time, relatively, it's 1435 now and we're due to meet with Fadi I believe at 1515 so we've got 40 minutes to prepare for our session – well normally this next session is for Board, GAC and ccNSO. Let's – sorry, I should have give you the opportunity to close the recording.

END