ICANN Transcription
Privacy and Proxy Services Accreditation Issues PDP WG
Tuesday 22 September 2015 at 1400 UTC
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Accreditation Issues PDP WG call on the Tuesday 22 September 2015 at 14:00 UTC. Although the
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Attendees:
Stephanie Perrin NCSG
Todd Williams - IPC
Sara Bockey - RrSG
Frank Michlick - Individual
Steve Metalitz – IPC
Sarah Wyld – RrSG
Darcy Southwell – RrSG
James Bladel - RrSG
David Hughes - IPC
Phil Corwin – BC
James Gannon - NCUC
Paul McGrady - IPC
Susan Prosser- RrSG
Alex Deacon - IPC
Luc Seufer - RrSG
David Cake- NCSG
Michele Neylon - RrSG
Kiran Malancharuvil - IPC
Osvaldo Novoa – ISPCP
Christian Dawson - ISPCP
Chris Pelling - RrSG
Val Sherman - IPC
Kathy Kleiman - NCSG
Lindsay Hamilton-Reid - RrSG
Graeme Bunton - RrSG
Terri Stumme - BC
Volker Greimann - RrSG
Iranga Kahangama -
Stephen Truick -
Carlton Samuels - At–Large
Griffin Barnett - IPC

Jennifer Standiford - RrSG
Susan Kawaguchi - BC

Apologies :
Holly Raiche ALAC
Don Blumenthal – RySG
Vicky Schlecker – IPC
Rudi Vansnick - NPOC

ICANN staff:
Mary Wong
Amy Bivins
Gisella Gruber

Coordinator: Recordings have started. You may proceed.

Gisela Gruber: Thank you very much. Good morning, good afternoon and good evening.
                   Welcome to the Privacy and Proxy Services Accreditation Issues PSP
                   Working Group Call on Tuesday the 22nd of September at 1400 UTC.

                   On today's call we have Stephanie Perrin, Todd Williams, Sara Bockey,
                   Frank Michlick, Steve Metalitz, Sarah Wyld, Phil Corwin, James Bladel,
                   James Gannon, Paul McGrady, Susan Prosser, Alex Deacon, Christian
                   Dawson, Chris Pelling, Val Sherman, Graeme Bunton, Terri Stumme, Volker
                   Greimann, Iranga Kahangama, Amy Bivins, Stephen Truick.

                   Todd Williams is also on the call as well as Kathy Kleinman. Apologies today
                   noted from Holly Raiche and Don Blumenthal. And from staff we have Mary
                   Wong and myself Gisella Gruber.

                   And if I could please remind everyone to state their names when speaking for
                   transcript purposes. I may have left a couple of people off the list. I see that
                   Griffin Barnett has also (joined the) call. Attendance will be noted. Thank you
                   very much. And over to you Steve.

Steve Metalitz: Thank you Gisella. This is Steve Metalitz. We have a full agenda here, which I had seen up on the screen. I'm not seeing it right now. But I'm sure it begins with asking if anybody has any updates for their statement of interest. So let's give folks a second if they - anything they may want to bring forward there.

Steve Truick: Yes. Steve Truick here. I'm new to the group. I'm basically replacing Dick Leaning as a law enforcement person. And my background is I work for the MHRA in London, a medical authority here in London. And I'm an ex-police officer working for the Metropolitan Police.

Steve Metalitz: Thank you. Welcome to the - welcome to the call.

Steve Truick: Thank you.

Steve Metalitz: Okay. Anybody else?

Paul McGrady: Steve, this is Paul McGrady. I'm not on the Adobe. So I don't know if I needed to close that (unless abstain) when I will be seated in the GNSO Council in Dublin. And I don't know if that's like a (serial) change or not. So I thought I would mention it so that I don't (fail to mention it).

Steve Metalitz: Okay. Thank you. So Paul is a candidate for election to the GNSO Council. He's been approached. So we're expecting that he will pick up that seat in the - at the end of the Dublin meeting. Thank you.

Okay. Well I - okay. Now I'm seeing the agenda here. So we basically have reports or items from three of the four subgroups, one, two and four. And I'll just say on Sub Team 3, which is looking at Annex E; we had a good discussion I think of - we've had a good discussion of that in the working group and I was hoping that we would be able to return to that this week but I understand Sub Team 3 has not had a chance to meet.

But I'm hoping that they will meet in the coming days and bring back to this working group next Tuesday some specific suggestions on any changes to Annex E, in particular to deal with whether any changes are needed to meet a verifiable evidence standard that some commenters called for. So I'm hoping that we'll have some specific suggestions on that in advance of the Tuesday call so we can discuss them next Tuesday.

Moving along to the items that are on the agenda, Sub Team 1 we had a - we've had a couple of presentations from Sub Team 1, which I think reached some good conclusions. And Mary circulated a document that should be on your screen that is proposed text to update our report to reflect the discussions in the sub team and in the working group.

I'm going to - I'm going to say now I'm going to have to apologize that because we had a lot of email problems here in our firm yesterday and so I didn't get this until - I didn't actually see this till this morning but it was circulated yesterday. And so hopefully people have had the chance to look at it.

So let me ask Alex and I don't know if (Lindsay)'s on the call, the co-conveners of Sub Team 1 just to see if you guys have had a chance to look at this document and if you have any comments on it.

Alex Deacon: Hi Steve. It's Alex.

Steve Metalitz: Alex, go ahead. Alex, go ahead.

Alex Deacon: Yes. So I scanned it also myself this morning. I think it makes sense to make sure there's time for everyone to read the details. I think for the Question 1 I think it's pretty accurately depicts what we suggested for the group. And I just want to remind people to make sure that they read our suggestions in the context of the full section for Question 1 just to make sure there's no confusion there and it's read in context.

Steve Metalitz: Okay. Thank you. (Lindsay), have you had a chance to look at this? Do you have any comments on it? Okay. Not hearing from (Lindsay) on this. But let me open the floor to see if others have any comments or questions about this document. Again, it was circulated prior to the meeting but not long prior. So I don't know if people have had a chance to look at it. Kathy has her hand up. Kathy, go ahead.

Kathy Kleinman: Hi Steve. I'll join the crowd of people who haven't had the chance to look at it. And I have a procedural question for you, which is when we're looking at these draft text whether it's Sub Team 1, Sub Team 2, Sub Team 3, are we really looking at it now, you know, are we looking at it now to approve the recommendation or to approve this being moved as an issue for further working group consideration?

So being moved onto the list, you know, onto - there was a list that was circulated of issues for further consideration. Are we approving - so again, let me see if I can rephrase it. Are we approving this text to go into the final report or are we approving it to be moved to issues we'll be looking at in further detail?

I prefer move to issues for further detail because then we'll have all these new texts in front of us and be able to look at everything together for the full extent of the impact.

Steve Metalitz: Thank you Kathy. Let me provide my answer to this and Graeme of course is welcome to present his views. We have these sub teams in order to get this discussion framed. And we've had two meetings to discuss this - the output - at least two meetings to discuss the output of the sub team. So I view this as text for inclusion in the final report.

Now nothing is final till everything is final. So that doesn't mean we can't, you know, that we're locked in. But we need to start - if we're going to have any

hope, any hope of meeting our timeframe, then we have to start putting pieces into place for the draft final report.

So having gone through the sub team process, the sub team having met several times, having presented at least two or three times to this - to the full working group, having literally had hours of discussion on these issues, I think we're at the point where we are hoping to have final text - text for the final report.

Obviously the whole final report will need to be looked at. But that - my understanding is that this is text for the final report. So I'll ask Graeme. Obviously we're not going to approve it now because people haven't had a chance to look at it. But I'm hoping that during the week people can look at it and we can put this one small piece of our final report into place. So I'll ask Graeme if he has any views on this that he wants to share.

Graeme Bunton: No, I don't Steve. I think the aspirational goal was to provide (help) that you can for the final report (unintelligible).

Steve Metalitz: Okay. I did not hear you very well Graeme. I think you were basically agreeing with what I was saying. But if not, please speak up.

Graeme Bunton: Can you hear me now?

Steve Metalitz: That's better.

Graeme Bunton: Oh good. New headset. I was saying that, you know, the aspirational goal for these subgroups is to provide text to the final report. And I agree with you that that's the goal and hopefully we can get to that place and I acknowledge exceptions to that. And that's okay. That's what we're working on. That's probably a long way of saying yes.

Steve Metalitz: Okay. Thank you. All right. So Kathy, I think that answers your question from the co-Chairs' perspective. Let me just see if there are any - is there anybody else that wants to comment on this document now? If not, then I guess I will ask that people take a look at it.

If you have edits to it, please bring them to the list and hopefully we can get this wrapped up no later than next week's call and hopefully before next week's call. So please use the list if you have further comments on this section. And thank you to the staff and thank you certainly to Sub Team 1 for all their work on this. So let's move on to the - our next item on our agenda.

So the next item on our agenda is some language that was circulated about a week ago - well I guess last week, you know, seven days ago - five or six days ago. Basically growing out of the work of Sub Team 2 and a discussion in the working group. So this language was circulated by the co-Chairs, again, for proposed language for the final report.

So I have seen, as I said, I've had email problems over the last 24 hours. But I think I've seen most of the commentary; not necessarily in the order in which it was sent, which is a bit confusing for me. But that's my problem.

I think the original objection that was - that - or the original response that James Gannon sent to the list within about ten minutes after we circulated this document was to the - was concerned about the last two paragraphs.

I saw almost nothing in the discussion that I've seen about anything other than the last two paragraphs. So if that is correct, I'd like to - people to look at the last two paragraphs. I believe you can scroll down your text there. And let's look at these last two paragraphs.

The first one, which is making a suggestion about something that happened during the implementation phase. And the second, which is called an alternative approach for a review after the accreditation system has been in

place for a while to look at how privacy proxy providers are dealing with this - accredited providers are dealing with this issue and whether there are any convergent practices or potential for adoption of best practices in this area.

I think what is not in dispute is the conclusion that is at the top of this page that the working group does not believe that the accreditation standards for PP Services should require service providers to deny the use of these services to registrants, which to use them to engage in commercial activities or online financial transactions.

So as far as what would be in the accreditation standards, I haven't seen anybody disagreeing with that conclusion. Obviously that's not the conclusion that some commenters and some members of the sub team wanted, but this seems to be where we're ending up.

So it's really these two other proposals that are in this document for things that would be outside the scope - outside the accreditation standards themselves. And one is whether an illustrative framework mechanism should be used - should be developed for dealing with this issue.

And the second option was to have a review after a year or two of operation about how this is actually working in practice among accredited service providers.

So let me open the floor to discussion on these. And if you're in the chat room, please - or in the Adobe room, please raise your hand. If you're not, please just speak up and we'll get you in the queue. I see Kathy is in the queue so go ahead.

Kathy Kleinman: Hi. Steve, I'm actually going to speak to the first paragraph. I know there are lots of people who want to speak to the last two paragraphs. But the first paragraph I think sets this up in kind of a funny way. That the working group

was unable to achieve consensus on the important question of - and we know what that question is.

Really it seems like it should be phrased differently. That the working group determined not to go forward with any differentiation of proxy privacy services be it commercial or non-commercial or any subset thereof.

That's really the decision. Phrasing it this way kind of presents it as an open question that needs to be answered at some point along the way. But there is a very definitive answer coming out of this working group on this question and through thousands of comments. So I would phrase Paragraph 1 differently.

Steve Metalitz: Yes. I think that's a good point. I think - let me just respond to that because this is obviously intended to describe what was the situation at the time we released the initial report. Up until the time of the initial report we were unable to achieve consensus. So we asked.

Kathy Kleinman: Right.

Steve Metalitz: We asked the public for this. So we need to - we should clarify that as of the time of the initial report instead of just - I mean it says that it's the official report but I think this...

Kathy Kleinman: But I'd like something to reflect where the vast majority of the working group is. There is no consensus on making a change.

Steve Metalitz: No. Well...

Kathy Kleinman: That's where we are.

Steve Metalitz: Yes. I understand that Kathy. And that - I think that first paragraph on the top of the second page makes that point. This is the background as to why we asked the question. We asked the question because at the time of the initial

report we couldn't reach a consensus so we asked. So that needs to be clarified that this is...

Kathy Kleinman: Great. Let's clarify. Thank...

((Crosstalk))

Steve Metalitz: ...snapshot of where we were at the time we published the initial report. Not where we are now.

Kathy Kleinman: I would appreciate the clarification. Thanks.

Steve Metalitz: Should make that clarification. Thanks. I see James B. in the queue and if anybody else wants to speak, please raise your hand.

James Bladel: Thanks Steve. James speaking for the transcript. And, you know, I don't want to start the piling on of the last two paragraphs. But I do have just kind of a practical question or concern, which is that if we have determined in the first, you know, at the outset that there should be no obligation or requirement to discriminate between domain names used for (commercial) or financial purposes or (system names that are).

And then the last bit is talking about a one-year review of different practices implemented by accredited service providers in treating the, you know, different practices (you) to deal with these.

I don't understand how that review could have any basis of data to review if we're not discriminating at the outset (unintelligible) to, you know, to provide to that review process.

So I'm just confused because I feel like they're kind of contradicting each other if we're saying we're not going to discriminate but later we want to review how we're treating these names differently.

So I just feel like there's a incongruent instructions between the - and all the issues that folks have pointed out with the second two paragraphs. But I think generally speaking I'm more concerned that it's just kind of - well, it's going to be a void or a null dataset.

Steve Metalitz: Okay. I see James Gannon and Stephanie Perrin. So James, go ahead. James G.

James Gannon: Hi. James Gannon. So very good point made by James Bladel. So I'll (add) onto that as well and give him a (unintelligible). But (unintelligible) I don't want to get into the details of why we disagree over this.

This is the zombie that keeps coming back to us again and again and again. And I'd prefer if we just let this thing die. So it doesn't reflect the consensus of the group.

And we have no issue obviously with reflecting that there is a minority viewpoint on this. That's totally clear. And that should be in the report. However, I think the last two paragraphs reflect an operationalization of that minority view, which is not supporting by the working group and therefore shouldn't be included.

I think it's a pretty simple, you know, yes/no question here. And I don't think we should waste too many cycles on this. It's not supported by the group and therefore I don't believe it should go in.

Steve Metalitz: (Thanks). Stephanie. Stephanie, go ahead.

Stephanie Perrin: That's very much. Stephanie Perrin for the record. I have a number of concerns about how this is worded because the points about the first paragraph (I've) already noted. And then the second paragraph basically

says well, we didn't reach conclusion on this or at least we decided we didn't have consensus on banning it but go ahead and discriminate if you feel like it.

Now in actual (unintelligible) there may be rights here that are being stomped on. And we don't make that note. The fact that criminals use privacy proxy services - criminals use other - you know, they don't - not all criminal activity is hidden through privacy proxy services.

So the suggestion here is that we couldn't reach consensus and we're not going to do it this time. We'll review it but go ahead. Do it if you feel like it. I mean obviously you're not going to tell a company how to do business at the micro level. But that brings up my basic point. What (remit) has ICANN to interfere in looking at the use of domain names?

I would like a legal opinion on that preferably from outside counsel. Because I do not believe that ICANN has the authority to investigate potential use of the domain names as a determination for use of proxy services. Thanks.

Steve Metalitz: Okay. Stephanie, I don't see anybody else in the queue but I guess I'm not clear on your point. First you had a question about the second paragraph of the document, which just is - just restates the questions that we asked.

What is - is that your concern? Or is your concern that we - this document recognizes that some proxy service providers now have policy that forbid the use of their services for commercial activity?

Is that - is it the latter that you're concern about and you think they should be not be allowed to do that? Or is it - are you - I wasn't sure what your concern was about the second paragraph of this document. Or are you talking about the last two paragraphs?

Stephanie Perrin: Okay. Possibly I'm flagging the wrong paragraph here. I'm looking at the one that is - the one that is the - be helpful if paragraphs were numbered wouldn't it? The second paragraph on Page 2.

Steve Metalitz: Okay. So...

((Crosstalk))

Steve Metalitz: ...one that starts with working groups notes that at least some significant current providers have adopted and enforced similar restrictions. Is that...

Stephanie Perrin: Right.

Steve Metalitz: ...factual - are you concerned about the factual accuracy of that or about the conclusion they're allowed to do...

Stephanie Perrin: I'm concerned about the suggestion that we are basically saying we are not going to put it into the accreditation standard or whatever we're calling this but go ahead and - nothing in this - nothing in this document prevents registrars from discriminating and not providing it to those who they think might be engaged in commercial services.

Steve Metalitz: Yes. That...

Stephanie Perrin: I'm also - I also consider the suggestion that it could be used from criminal purposes is not really appropriate here.

Steve Metalitz: Okay. Let me try to separate those two out. So one is the fact that some services now do what you believe they shouldn't be allowed to do it and be accredited. Is that correct?

Stephanie Perrin: No. No. I'm objecting to the flow here that says well, we couldn't manage - and here's my logic. You know, the first paragraph says we couldn't manage

to get consensus on the desired opinion, which would be -- oh, excuse me if I'm being a little blunt here but, you know -- which would be to exclude commercial services.

And then the next paragraph says however, plenty of currently unaccredited service providers do discriminate and do look into the potential use. And by the way, lots of crooks are using privacy proxy services. So therefore nothing in this document (unintelligible) accreditation process should discourage you from discriminating. And there are two points there.

Number 1, I don't believe that ICANN has the (remit) to empower or obligation its registrars to look into future use of the domain name. That's Point Number 1. And I'd love to see a legal opinion on that. Because everybody I talk to says they don't. So why are we even talking about this?

And the second point is that you're basically (unintelligible) anyone who reads this document to the completion that it might be a good idea to discriminate even though it's not required. Have I made that clearly enough?

Steve Metalitz: Yes. Yes. I think so. But I will say on your first point I don't think there's any disagreement that ICANN would not empower or obligate - would not obligate for providers to do this. The question is whether it would permit them to do it and still be accredited. So that's really what that paragraph is about. Let me go on...

Stephanie Perrin: That's too clear. My question is whether ICANN has the (remit) and is operating outside of its (remit) already...

Steve Metalitz: All right.

Stephanie Perrin: ...is my question.

Steve Metalitz: Okay. That's a fair question. But since we - our job here is to try to propose accreditation standards, I'm going to stick to that. And then (unintelligible)...

Stephanie Perrin: Well, and to try to propose accreditation standards that are legal and...

((Crosstalk))

Steve Metalitz: ...accreditation standards would not (unintelligible) any requirement to deny services to people who tend to use the service for commercial transactions. But it also notes that some service providers now have that rule. And we're not saying that they couldn't be accredited without changing that rule.

If you're suggesting that we should have an accreditation standard that says they can't deny the service people engaging commercial transactions, then that's a - I'm not sure if that's your point. But let me go on to Kathy and Michele who's been waiting patiently and James B. is back in line again. Kathy, go ahead.

Kathy Kleinman: Hey Steve. I think I can resolve the issue that you and Stephanie are raising. For me all of the - the final four paragraphs all appear on the second page. I don't know if that's for others.

So let's go - so you and Stephanie were talking about the third to last paragraph. Let's go to the fourth to last paragraph, which starts under these circumstances.

I hate to say it. A lot of this report appears to have been written from the perspective of - it would have been good if we decided this but we didn't. So if we change the wording of that, I think it solves a lot of our problems.

So if we do under these circumstances the working group does not believe that the accreditation standards for proxy privacy services should require

service providers to deny, which implies that we should have gone that direction, to differentiate.

We do not - should not - should require - we do not believe, you know, should require service providers to differentiate the use of these services to registrants who wish to use them to engage - and we should really say commercial activities and non-commercial activities.

This conclusion seeks to reflect the clear majority that's (unintelligible) expressed in the comment period. I don't think we have to go on from there. I don't think we have to go on to any of the rest of it because one, we haven't really looked at the providers who differentiate.

We don't have - and I don't see any reason - what you said is that we need to be able to protect those providers who differentiate from those who don't. And with the wording change, that one word from deny to differentiate, we basically say you can be accredited with the rules that you've chosen, not the rules that we've (unintelligible).

And then I would stay out of the whole history, which we don't really have the documentation for, which is Paragraph 3. And then Paragraph 4, you know, the last two paragraphs don't reflect anybody's agreement.

Steve Metalitz: Well, I...

Kathy Kleinman: So let's just make this simple and clear.

Steve Metalitz: Okay. Let me just say that the documentation is clear. I mean (unintelligible) in terms of service state it. So this is at least one example that we - as we talked about about 18 months ago in this group.

Please go back and look at terms of service that were presented and discussed. Some providers do have (unintelligible). And take the factual. Okay. Michele and James.

Michele Neylon: Thanks Steve. Michele for the record. Two things. One, I'm not 100% sure of what Stephanie was getting at but I think several of us understood her to say that she didn't want a service provider to be able to stop people from using their service on the basis of domain usage.

At last that's what I think she said. You see there is two things here. First off, as a service provider what I choose to offer to my customers the terms of service under which are for them, who I choose to sell services to or something that well as a business I like to be able to control.

So if Stephanie or anybody else is telling me that I can or can't do something I'm always going to have a bit of problem with that I'm going to push back on that.

So whereas the issue that (James G) and others had was one which is related to policy which I think a lot of us are very clear on but we had issues with these two last paragraphs.

So while - okay Volker keeps being picked on as an example. So he's big enough and ugly enough to defend himself so why not. You know, if Volker's company or my company or somebody else's company wants to insert terms into our terms of service restricting who we sell or offer a service be that privacy proxy or anything else and as long as we disclose of it we should be free to do that.

And I have a problem with people saying to me that I can't do something because of some other issue which I don't fully understand where that's coming from.

But more importantly I just wanted to agree very strongly with everything that (James G) said earlier. Thank you.

Steve Metalitz: Thank you Michele. James B.

James Bladel: Hi James speaking for the transcript. So I'll add my plus one to Michele as a service provider, you know, if we decide that it's not in our business interest to serve, you know, blue eyed people from Indiana for example or it's just not cost effective then we should be free to set those terms of service as long as they're disclosed and as long as we're not deceptively taking money from folks and the not providing a service. I don't see any issues with that.

And then in the interest of time I'll drop my other point now. Thanks.

Steve Metalitz: Thank you James. Stephanie.

Stephanie Perrin: Stephanie Perrin. Clearly I'm not adequately caffeinated this morning because I don't seem to be able to convey a basic point. So my basic point relates to what ICANN tells or encourages registrars or operators of privacy proxy services to do.

And I think Kathy has been far more eloquent than I. I have a concern with the tone of the entire document. But as I said it sounds as if it's needing while we didn't get this this week and we're going to come back and revisit it.

In the meantime don't let us discourage you from (unintelligible). I believe I did say and the transcript should show that we are not in the business of telling the operators of privacy proxy services how to do their business. That is acknowledged.

But we have an obligation not to be orienting them in a particular direction and that I believe is what the second paragraph on page 2 does. Orienting

them to discourage them from operating from denying privacy proxy services to commercials.

If they decide to do it for their own purposes well fine but this document should not be influencing them. So as Carlton has said in the chat if they drop the whole thing and most of this is unnecessary text and is not particularly adequately supported by the conclusions in the comments then we get rid of my problem.

The lingering question about whether ICANN is way outside of its remit is one that I'll take up elsewhere. Thank you.

Steve Metalitz: Thanks Stephanie. Volker.

Volker Greimann: I had to un-mute myself there. Actually I'm with Stephanie here. I think that what she meant was not that registrar is not able, should not be able to differentiate.

I think that is clear that they have to be able to structure their terms and conditions however which way. I do think however it is the wrong place of this working group under the consensus that we are trying to build and under the opinions that we've seen would be held by a majority of the commenters and the (unintelligible) of the working group to be suggesting that this would be the best course of action or a suggested course of action even though we were not able to make that a recommendation.

So having this in there makes it seem to be not a recommendation but maybe something lower than that. I suggest, a strong suggestion that this would be a good way forward.

While I agree that I want to structure my terms and conditions that way I don't agree that the working group is the right place and the report is the right place to make suggestions.

I think that is lobbying that has to occur outside of this report. This is not something that we should include. This is not a majority opinion.

Steve Metalitz: Okay I'm going to germinate this agenda item here because we have a couple other agenda items to get to. I'll say that let me just suggest a couple of conclusions.

First of all I didn't hear any support for the last two paragraphs which I think are actually quite different as far as what they recommend. But I didn't hear any support for either of those.

As I said we didn't have anything really on the list about anything other than the last two paragraphs but during our conversation over the last 20 minutes we've had a number of different and mutually exclusive suggestions on this.

So let me just ask that people read this document and put on the list their specific edit that they proposed to make. (Kathy_ had one specific suggestion and we've heard some others as well.

I think I'm still a little bit unclear about what the concern is about the third to last paragraph. The one that says the working group notes which I think is factually accurate and I'm not sure why people are afraid of including factual.

If they're concerned about including factually accurate statements in our report but maybe there are ways to express that would be more acceptable.

And finally let me just say I think if we have something that only reflects the majority view then that definitely reduces the value of our report. And I think to suggest that we shouldn't say that there are pragmatic reasons for reaching the conclusion that we do even if not everyone agrees with the merits of the conclusion that we reach.

I just think that that reflects very poorly on us. So I would not, I would really encourage people to look at the sentence that refers to pragmatic grounds and see if that is really something that they want to delete.

So we'll ask people if you could by Friday of this week to circulate any proposed edits to this and then we can see if we're in a position to put this chunk into place or whether it needs further discussion.

The next agenda item is about the work output of sub team four. This again just came out and it's very extensive. So I think what I will do is ask if Paul and Kathy on behalf of sub team four want to walk us through this.

Explain what this document is and what its goal is here or where this takes us on the sub team four issues that would be great thanks.

Paul McGrady: This is Paul. I was going to say even though unfortunately I'm not in front of my computer this morning and Kathy please feel free to interrupt me or correct me if I go off the rails.

But the purpose of the document that was circulated last night is to show a summary of the various comments that we went through which were identified as not falling into areas that the other teams (weren't) necessarily looking at even they may be related.

And that was sort of step number one. (Unintelligible) we have 115 comment that the (unintelligible) be added to this summary. We circulated it primarily so that the rest of the team could see what we're looking at, the universal comments and how we're filling those into this summary document.

And then when this is complete we will then be taking this summary document on our next (Q) call which is on Friday and starting to process of some of us pursuing it further into a three or four page summary document

which will be circulated to the entire team as well for discussion of particular topics.

And then if any of the topics make it through that process then we would I suppose move on to proposed textual change to the final report. So that's sort of the process.

This document I don't think the larger team necessarily needs to read through it although everybody is welcome that's why it was circulated. But I think (unintelligible) essentially how we've narrowed the universe comments and is elective of our process and ties into the timeframe that we're discussing with the summary document for next week.

Kathy did I get that right?

Kathy Kleinman: You did Paul I thought that was great. Do you mind if I drill down a little bit to help people read through the document?

Paul McGrady: Yes please do.

Kathy Kleinman: Okay great. (Unintelligible) forth and hard at work everybody. We're trying to kind of put our arms around the universe of comments as Paul mentioned. When you look at the template and you'll see the work that we've been doing for the last week or more.

There are different categories. We kind of divided up the comments into different categories of issues that we noticed were starting to emerge. So Category A is law enforcement.

We're doing a lot of work in sub team three on Annex C which is access to reveal data by third parties, private parties. Where do all the comments go that are talking about law enforcement if and when we look at that.

Category B is about methodology. A number of comments, we're trying to encourage different review processes after the, you know, how are we going to check and see that we haven't inadvertently may have done something wrong after the accreditation process goes into place.

That we haven't created other problems or magnified other problems. We had some interesting comments on that. We put those altogether.

Category C is about other new or additional features that the working group should consider adopting. This is for the existing procedures that we've already proposed.

So one request we're talking about for example, retention of data, sorry one comment we talked about, retention of data by requestors. Should there be a limit in time for how long a requestor can retain or keep the data that's disclosed?

That's an interesting concept (Merritt) is looking at. So those are Category C type things. And there is some good ideas about some new features that help kind of provide more due process or more protection.

Category D is a whole set of unintended consequences. We think we know about the unintended consequences of the disclosure of the data for registrants, requestors, providers but we got a comment for example from 105 individuals many who are leaders in the women's community and the electronic community.

And also signed by 65 organizations including domestic violence groups from all over the United States. And they've got some new insight and input on unintended consequences and it's really big. So we've got that and a number of others.

Category E, we heard a lot of comments that were about - that were for and against the creation of the accreditation program itself and so we've categorized that.

Category F, additional due process concerns. Those are in and Category G is things that didn't come up.

If you have time to review this 40 page template please make sure it includes whatever comments you thought were most important. We've all read through and getting your hands around 21,000 comments is really hard.

So we'd like to make sure it includes anything you thought, you know, the whole working group would love your eyes on this that needs to be considered.

This is our final bucket and if something else belongs in the bucket please let us know either whether the comment belongs in the bucket itself, whether it's not there or whether some idea or concept in it is something that we should be considering.

Maybe we considered it on Category A but we should be considering it under Category C. Thanks Steve and thanks Paul.

Steve Metalitz: Thank you Paul and Kathy. Let me open the queue to questions or comments on this report from sub team four. Okay I have a couple of questions and so let me just tip this off.

Really two. One of them as you went through these categories I did hear a lot of issues that are also being discussed in other sub teams or addressed in other sub teams.

So the issue you mentioned under Category C about retention of disclosed data that's an issue that is on the table in the area of intellectual property compliance in sub team three.

And similarly Category D is being addressed there in that context. So is it -- can you clarify whether your sub team is looking at this outside of the intellectual property context since that's the only thing that sub team three is looking at or is this some overlap that we need to address. So that's my first point.

And my second point is about - anyway why don't I stop there and ask Paul or Kathy to respond to that, how you're dealing with overlaps with other sub teams in particular sub team three.

Paul McGrady: Yes so this is Paul. And I have a concern as why I was designated to circulate this template because the template is only to capture the comments not proposed at this stage that they need further discussion by the overall working group.

That the summary will distill down from the template but what we know is being looked at by other groups and if it's being looked at by other groups then fine.

But if it's not something that's being looked at by the other groups, you know, did not go (unintelligible) and discuss it by the working group and it's considered to be, you know, an important issue it will make its way into the summary and ask the group to discuss.

And so I wouldn't as you're looking at the template document I don't know that I would get too discouraged about overlap at this stage. If you see overlap still after our summary document goes around then I think that that's the time to be concerned about that. Kathy do you agree with me?

Kathy Kleinman: Absolutely but I think also people can flag things that they would like bounced to their sub team and we'd be happy to take it off our list and give it to you.

Yes we were working off a staff document we called part four and we were largely working off of that and also independent view of the comments. So these are issues we kind of thought collectively with staff that were missing from the discussion but if they're not just let us know. Thanks.

Steve Metalitz: Okay thank you that's very helpful. My other comment and again I saw James' hand up but it's down now so I'll just continue unless somebody else wants to ask a question.

It may be the same answer on this which is Category E or additional reasons for or against the creation of the accreditation program. I think we should definitely look at those comments.

I do think that our job, the job we were given was to propose an accreditation system and the board emphasized yet again just a few weeks ago in its public statements that it is committed to having an accreditation system.

So I just hope we can put that in this context. I think we should note that some people certainly told us they don't think there should be any accreditation system and that's a legitimate point of view.

But the board has already committed to doing this so that's kind of the remit within which we are acting here. So again I think this may be premature because, you know, after you look at those Category E comments, you know, you presumably will make some recommendation on that but I just wanted to note that.

Let me ask if there are others who have - well first any response to that from Paul or Kathy or others on the sub team?

Paul McGrady: Yes Steve I think we understand that and again the purpose of this document was just to gather the context. I know that we had a lot of comments against the entire concept that we're (unintelligible), you know, the template comments.

I'm trying to find the right words so I don't end up making people angry. But the, you know, hundreds of comments saying we shouldn't have this. So just say the Category E may just be, you know, more eloquent ways (unintelligible) or raising, you know, reasons why that we haven't thought of.

But I don't think we're not necessarily gathering those for the purpose of undoing our work by just to make that working group aware of what those comments said.

Steve Metalitz: Okay thank you. Any other comments on this sub team four document? Okay we should recognize that people asked, people are glad they had the opportunity to comment and we should say that in our final report.

Okay I believe our last agenda item had to do with the issues previously identified through our review of the first three parts of the public comment tool document.

And then the staff pulled this together to give us the half a dozen or so bullet points on this. So if I could ask the staff - the document is now up on the screen.

If I could ask the staff was this document circulated or what is the status of this document, what would be your recommendations about the next steps here?

Mary Wong: Hi Steve, hi everybody this is Mary from staff. So an earlier version of this document was circulated that primarily focused on the issues arising from parts one and two of the review tool.

So this latest version just circulated yesterday adds to that earlier version just I think might have been one issue that was spotted by the working group arising out of part three.

And I think as we said a couple of weeks ago when this was last discussed staff will keep adding to it when the issues that are spotted by the working group discussions like today.

In terms of next steps I think our suggestion would be first of all that (perhaps) look through those first three parts of the tool to make sure that there I no other issues that you want included on this list because the other suggestion we would have is that then the working group just sort of complete its deliberations and then swing into looking at what you would like to see in the final report.

We'd want to go through this list and decide which of these issues you want to have further deliberations on or potentially create a new recommendation on. And as part of that exercise I think as Steve and (Graham) know the staff had some feedback from our registrar services and compliance teams on some of the recommendations that we would also like to highlight like as said as part of this exercise.

So that the working group can have this kind of ability to consider, you know, other issues, additional concerns before swinging into the final report. Steve.

Steve Metalitz: Okay thank you. So let me again this is drawn from the discussions that we have had on these public comment tools which have been, you know, out for one to two months now.

I think the first ones were circulated in June. This is now the end of September. So I think we've got a list of issues here and I think it would be

worthwhile to look at this and decide whether these are things that, areas where we would want to change the initial report.

You know, for example the first, the second item talks about labeling privacy proxy registrations as such. We had a lot of discussion about that leading up to the initial report.

Some commenters thought that was reducing the benefit or value of these registrations in some way. Do we think so or do we think that that needs to be taken into account and should we back off from our initial recommendation in that area?

The third point here talks about the option of registration cancellation in lieu of disclosure that's been discussed a lot in sub team three in the context of Annex E as to whether that would be required but we also had people who said that should not be allowed that the accreditation standard should forbid that.

So do we need to, do we want to relook at our conclusions based on that? So maybe in some of these we may decide that, you know, we don't think we need the change what were initially recommended but this is a useful list for us to react to.

And if there are areas where people want to drill further into it let's try to identify those as soon as we can. Let me just ask if there are any comments on this document or questions about this document?

Okay if not just going to back to sub team four. Again thank you for your report and I just wanted to clarify do you think this three to four page document with recommendations do you think that you will, do you have a timetable for when you will have that?

I mean is that going to be something that we will have before us next week or is that timetable unrealistic? So let me just ask Paul or Kathy I should have asked this earlier.

We understand a three or four page summary document is going to be developed drawn from this and when should we expect to see that. I know you're meeting on Friday?

Kathy Kleinman: Next Tuesday Steve, we're meeting on Friday to review it.

Steve Metalitz: Okay, so we'll look for that for our call next Tuesday. So let me just summarize where I think we are on these topics. On sub team one the document the proposed draft text for updated Section 1.3.2 please look at this and give us any reactions online and any specific edits that you would like to make online.

We especially want to hear from members of that sub team but I think anybody who has comments should bring those forward if possible by the end of this week.

On the second topic sub team two proposed language updating Section 1.3.3 on the assumption that we will drop the last two paragraphs that created, that drew a lot of opposition on the list please give us any other edits that you would like to see in this document.

We will also, you know, as we noted in the first paragraph make it clear that that was a snapshot of where the group was at the time we issued these initial report and not where we are now.

So please circulate those on the list also if you can before the end of this week so that we'll see where we are for next week's call.

On sub team three we're expecting that group hopefully to come back to us with some specific proposals or recommendations or options for discussion next week with particular attention to the verifiable evidence standard.

Sub team four we'll look forward to your three to four page summary document hopefully for next week. And then this last document that's up here the issue for further working group consideration please on the list give us your reaction to this.

And particularly any issues that you think we need to focus on going forward or ones that you think we can basically dispense with or that we can note that some people said that but we didn't choose to change our recommendation.

So I know that's a long list and I'm not sure we'll get to all of those next week but I think if we can make progress on all of those using the list over the next several days that will move us along towards the position that we want to be in which is to have actual final report text that we can discuss in Dublin.

So please let's see if we can move this forward. Let me just ask if there are any other comments that people want to make before we adjourn. And I agree with James B let's get these action items out to the list and hopefully people can use this week to make progress on those.

Okay, seeing no further comments and we're just about at the top of the hour I want to thank everybody for their participation. Thanks particularly to the sub team members for all the work that you have done and for the reports you've provided and we'll adjourn this call at this time. Thank you.

Michele Neylon: Thank you very much.

Woman: Thank you.

Man: Thanks.

Volker Greimann: Thank you and have a good day.

END