
ICANN Transcription

Transfer Policy Review PDP WG

Tuesday, 13 September 2022 at 16:00 UTC

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JULIE BISLAND:

Good morning, good afternoon, good evening, everyone. Welcome to the Transfer Policy Review EPDP working group call taking place on Tuesday the 13th of September 2022.

For today's call, we have apologies from Sarah Wyld (RrSG), Zak Muscovitch (BC), Owen Smigelski (RrSG), Catherine Merdinger (RrSG), Mike Rodenbaugh (IPC), John Woodworth (ISPCP). They have formally assigned Rich Brown (RrSG), Arinola Akinyemi (BC), Essie Musailov (RrSG), Jody Kolker (RrSG) as their alternates for this call and for remaining days of absence. As a reminder, an alternate assignment must be formalized by way of a Google assignment form. The link is available in all meeting invite emails.

All members and alternates will be promoted to panelists. Observers will remain as an attendee and will have access to view

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chat only. If you have not already done so, please change your chat selection from host and panelists to everyone in order for all participants to see your chat and so it's captured in the recording. Alternates not replacing a member should not engage in the chat or use other Zoom Room functionalities.

Statements of Interest must be kept up to date. Does anyone have any updates to share? Please raise your hand or speak up now. And seeing no hands, if you need assistance, please reach out to the GNSO secretariat.

Please remember to state your name before speaking for the transcription. Recordings will be posted to the public wiki space shortly after the end of the call.

And as a reminder, those who take part in the ICANN multi stakeholder process are to comply with the expected standards of behavior. Thank you. And over to our chair, Roger Carney. Please begin.

ROGER CARNEY:

Thanks, Julie. Welcome, everyone, to our second meeting since our break. And we will have a short week this week before our next meeting, just in a few days, actually, at the kickoff of ICANN 75. So I see that there's quite a few people out. And this discussion here is going to continue into ICANN 75. So I think that those that couldn't participate today will get another shot at participating this coming weekend.

But with that said, we do have a pretty big topic here. And again, similar to our last topic on the deny reason. But at the time, we

had some good discussion about what wording there should be? And we kind of knew we would get comments on it. And I think going into this and us saying the removing of the losing FOA, we knew we would get some good comments back on it. So I think that it shows that the public's paying good attention to this progress. So I think that nothing unexpected here, I would say, but a lot of good comments to go through. And so I think we'll spend a couple sessions on this topic, which encompasses several recommendations, but it's all hinging on the elimination of the strict losing FOA.

But to start off with, I would like to open up the floor to any of the stakeholder groups that may have had some discussions over the last few weeks, last month, even, that they want to bring forward, anything that they'd like to get answers on, or at least seed it in the minds of everyone, start thinking about, especially coming up to our ICANN face to face session. So I will open up the floor to anyone that wants to bring anything forward from their stakeholder groups. Theo, please go ahead.

THEO GEURTS: I got nothing from the stakeholder group. I just have a general question.

ROGER CARNEY: Okay, yeah, go ahead.

ROGER CARNEY: I was wondering what the session during Kuala Lumpur, what are you guys going to discuss? Is it going to be a general presentation of the work so far, or are you going to do the actual work?

ROGER CARNEY: Thanks, Theo. Yeah. And we were going to get into this a little more detail on five, but the general discussion overview will be fairly quick and we expect it to be more of a working session to dig into all the comments that we've received on this losing FOA recommendation and the set of losing-gaining recommendations and notifications. That's the plan. Again, a short overview introduction for the public. I would say less than 20 minutes, probably. And then the rest of the time spent on actual going through comments.

THEO GEURTS: Okay, thanks.

ROGER CARNEY: Thanks, Theo. I think that was all we had for any updates or anything. And again, hopefully, we'll see a lot of you this weekend or see you online this weekend for our session coming up as well. But I think I will turn this back over to I think Emily is going to take us through a couple of these high-level topics here so we can get going.

EMILY BARABAS:

Sure. Hi, Roger. Hi, everyone. I think before we dive into the subject matter for today, we wanted to provide a little bit of an update about some of the discussion that the leadership team has been having, and some of the thinking that staff has been doing about how to best support the working group as we work through all these public comments that have come in.

So for those of you who have been in other working groups or who are currently in other working groups, you'll see that there's some patterns in the way that we go through these reviews and also some differences. And that is often tailored to the composition of the group, sort of how intensively we see different members of the group participating, the participation model, so whether it's representative or open, the volume of comments, the distribution of comments, and so forth.

So as you'll remember, last week, we did sort of a first test of public comment review, on recommendation 19, and we will be coming back to that later on. But we're going to shift our focus a little bit, as Roger noted, to some of the early recommendations, given some of the interdependencies.

But I think what we collectively noticed in that sort of test run is that it might be helpful to have something in addition to the public comment review tool that helps the group kind of have everything right in front of them to support the discussion. So sort of key discussion focal points. Where appropriate, staff might be able to sort of put proposals forward based on recommendations where it seems like that's something the group would benefit from having in front of them in a clearer way so that they can decide whether they want to move forward with proposed edits, and also a place

where we can record sort of discussion questions as well as the direction of the working group in terms of what they've deliberated on, on these comments, and also what they've decided in terms of edits to the report.

And that's all about accountability. It's about making sure that it's clear, not just that we've read through the comments, but the group has really digested and considered them and either made changes where appropriate or sort of provided a rationale for why changes are not appropriate.

So what I'm going to do is just walk you through a sample of the kind of document that we're proposing to use, and we're very much open to feedback from all of you about whether this is the right way to approach it, or whether you prefer something else. But it's a starting point for us. And the idea is that if this format is acceptable, we would be preparing a bunch of these ahead of time so that people could review them, reflect on them and so forth, further in advance, obviously, to make sure that they're ready for discussions.

Okay, so let me just drop the link here. This is for recommendation two. So at the top of the document, we'll typically just have the recommendation text so you know that you have it handy. And if there's any other very key background information, we can include that as well at the top.

Important for us on the staff side, we're always uncomfortable doing synthesis on behalf or any analysis on behalf of the working group in terms of these comments. So it's really important that everyone is reviewing the original text of the comments in the

public comment review tool and making sure that they're very familiar with those and ready to speak to those. This is not a substitute by any means. But what we did attempt to do is sort of try to pull out some of the thematic elements that the working group may need to focus discussion on.

And we'll talk a little bit about process in a bit. But the idea here is that you'll all have an opportunity to review and let us know if there are things that are missing ahead of the call that we discuss them so we can make sure that everything's included.

And then I think what we'd like to do is think about some key principles for this review process. And we don't want to over engineer it. But we also do want to make sure everyone's on the same page about what we're trying to do here with the public comment review. And that'll help the process be a lot more efficient and also make sure that anything we change in the report faithfully reflects the direction that the group is going. So if you'll humor me, I'll run through these. And then I think we would love to get feedback from the group about whether these this seems appropriate and whether it makes sense, because it's really a collective ownership of the process.

So the first thing is if someone suggests a minor edit that doesn't seem to be a problem for anyone, the best thing to do is to focus on whether you can live with that or whether there's a real problem that you feel like is not acceptable. Whereas if suggested edits in the comments are substantive, the focus should be on what is new, so what new information is being provided or insights are being provided by the commenter. This helps to make sure that we're not just treading on the same ground over and over and

over again if something is being raised that's already been addressed.

If the concerns, information or perspectives have already been considered in the development of the recommendations, the focus can be on how the group can make sure that the report reflects how that was taken into account and why the group chose a different path. And again, that's so that commenters understand how their comments are being taken into account and also just strengthens the rationale of the recommendations overall.

I'll actually pause for a minute. Does anyone have questions on those three bullets? Do they make sense? Do they seem reasonable? This is pulled a little bit from the principles that were used for the EPDP's review of public comments.

Okay, and then the next two are really key. And they're sort of about the model of participation and where we're headed in terms of the consensus process. So important reminders that members are representing their groups, not their individual opinions or their positions of their employer. And now's the time to make sure that there's alignment between what you're presenting and what you're providing opinions on, or perspectives on or reactions to, in these discussions about the public comments. The goal there is to make sure that they're in alignment with the positions of your groups so that any revisions to the report will be gauged appropriately, so that when we get to the consensus call, there are no surprises. And again, here, the goal is to make recommendations that achieve consensus support. So if there isn't ultimately consensus, or does not appear that there's going to be consensus to make a change to the policy through recommendations, there won't be

recommendations, and that means the existing policy remains in place. Steinar, please.

STEINAR GRØTTERØD: My understanding is that when I have my At-Large hat on, and At-Large has responded to the public comment for the Phase 1A, that is kind of binding. So if the updated proposal is nearly the same, do I have to go back and get consensus—and get a confirmation from At-Large that the new wording is acceptable or not acceptable? Thanks.

EMILY BARABAS: Thanks, Steinar. I think every group is going to have its own process. And I think each representative on this working group is going to need to work with their own group to figure out what level of comfort they have with sort of delegating the responsibility of some of the specifics to you as a member versus what you need to bring back to them in terms of what level of edits and things like that.

I think the thing we're the most concerned about is making sure that people are not, for example, on these calls advocating for positions that are contrary to the groups that they represent positions. So, if your group, let's say if ALAC responded to recommendation 2 and said we support eliminating losing FOA, and you, Steinar, came on the call and said, "Well, I support keeping the losing FOA for these reasons?" that's an inconsistency there, and the point of view being representatives

here is to maintain that link with your groups and sort of speak on their behalf to the extent that you're able to do that.

So that could be a position where you're kind of more independent and empowered by them to take those positions, or where you're more closely linked and staying in close touch with them about the specifics. So I think that that's maybe a conversation to have with the CPWG about how they want their processes to run with it. Does that make sense?

STEINAR GRØTTERØD: Definitely. Thank you.

STEINAR GRØTTERØD: Sure. And Keiron, did we set a timeframe for when we need to respond to these requests? If you're able to speak, can you just clarify what you mean by that?

KEIRON TOBIN: Yeah, thank you. So just in regards to the recommendations, did we set a timeframe of how long we plan to kind of give a response?

EMILY BARABAS: So the period in which we're reviewing the comments? So they're going to be happening on a rolling basis. And we'll talk a little bit about process once we just give an overview of this document and how we're going to use these. But the idea here is that we'll try to work through the early recommendations first, which have

dependencies down the line. To the extent that there are agreements within the working group in discussing these working documents and comments, staff will be—and I'll just scroll down so you can see what we're looking at here.

These are sort of consolidated elements of the comments with the references to the corresponding review tool numbers for the comments. And the idea here is that staff is going to be on an ongoing basis after each call capturing the working group discussions and agreements and incorporating any proposed edits into the working document, which we'll release to the group and the group will have a period of time to review it. And if everyone agrees with that, then we'll set up a cadence so that it's agreeable to everyone and it's a working process. Does that answer your question, Keiron?

KEIRON TOBIN: Yeah, perfect. Thank you. Sorry, I thought I might be jumping ahead. But I just wasn't sure.

EMILY BARABAS: I think you're right on schedule. So I'm going to talk a little bit about kind of also the cadence of how we would release these working documents for prior review, and so forth. But I see Berry has his hand up. So over to you.

BERRY COBB: Thank you, Emily. Just to build on Steinar's question and Emily's great response. As we reviewed through these comments, and as

we saw, as an example, on last week's call, there was a momentum building about trying to adjust the initial report preliminary recommendation to something that the full group can kind of re-agree on. Basically where things were heading with respect to recommendation 19 and the denial reason about fraud, it looks to be like a decent probability that there's going to have to be adjustment to that recommendation as we venture closer and closer to getting to an eventual consensus call on the final proposed recommendation texts.

And I think that is specifically to Emily's point about the representatives of your respective groups about being empowered enough to try to get to this next round of preliminary agreements on revised recommendation text.

But I think the point that I want to add here of course, this isn't the last dance at the rodeo here. This is really a working method as we slowly exit out of review of public comments. And of course, afterwards, there's going to be time for the full working group to consider the new preliminary recommendations as we get closer to the final report, and that will also allow you to take these new revised recommendation text where appropriate or where applicable, or where they have changed, to reconfirm with your respective groups.

And so when we take a look, again, kind of as an example from recommendation 19 last week, and what we hope to achieve with kind of this new approach is that when there are indications where there are some preliminary disagreements, or a notion that the text will change, we are eager to try to find new middle ground and adjust the text, kind of as a second reading of sorts, to be able to

exit out of the public comment and ensure that we have reviewed the input received from the public comment submitters to kind of get to that new general agreement again.

So as Emily stated, where appropriate, and if you don't have enough of an understanding about your respective group's position on the change, then that will of course dictate how you need to go back to your group kind of in this preliminary step, so to speak. But of course, again, this isn't the final chance that you would be able to collaborate with your groups to kind of reconfirm your agreements. Thank you.

EMILY BARABAS:

Thanks, Berry. Really helpful clarifications. Does anyone else have questions about this element? So I think that today is going to be a test run of this document to see how people like it and it's working. And we're missing quite a few kind of key contributors this week. And we have quite a few alternate subbing in, which is great to see. And for those of you who are alternates, we'd love for you to encourage your representatives to review the notes, think this through, provide feedback on the mailing list, in terms of the format, the principles and so forth, as well, to make sure that we really have everyone on Board and everyone is on the same page about what we're doing here.

So talking a little bit about what we're looking at, in a few minutes, we're going to run through some of these items as a test run to see how it's structured and how it can kind of work for the group. But what we'd like to propose in terms of the process for using

these documents is something we'd like to keep in the back of your head as you do this.

We'd like to use—so we would prepare these documents quite a bit in advance so that you have them already ready. But what we'd like to do is use a period at the end of each call, so maybe 15 minutes or so as sort of a homework or pre-work period. That would give everyone a chance to prepare for the next week's call. So review the public comment review—we would turn off the recording. It's a little bit awkward to have silence but we've done it in other groups and it's been really successful. So it's something we can give a test run to.

Everyone would have a chance to review the comments that would be discussed the next week, look at the working document and make sure that it effectively captures the key concepts that need to be discussed. And then have everyone leave the call and take the week to do whatever prep they need to do on their side, be it coordinating with their groups or doing some thinking about the merits of the comments, what's new, what's workable, what's not workable, and why. And that'll just help us as we enter the next week's call to really have a more fruitful discussion and a fulsome discussion about the pros and cons and potential edits and so forth. And I think ultimately, allow us to move more efficiently through the comments with real substantive feedback.

And as we briefly mentioned, the idea is that after each call, after the deliberations, staff would collect the key points from the discussion, any agreements, capture them here in this working document and then update the report with suggested edits that

everyone would have a chance to review and respond to over the mailing list. And we would, of course, give time for that as well.

The alternative is something like what the EPDP did, but that's a very different working group, and had some very different characteristics. And that would be a case where likely there would be a lot more offline homework. So folks would be expected to essentially take time every week on a fairly tight timeline to review all of the comments and provide their own written assessment of those comments, which would then allow staff to sort of synthesize all of the written analysis that all of the groups have done, and create discussion points out of that.

with the EPDP, that meant that representatives from a given group, so let's say, the registries or whoever else would be meeting in between each working session to do their homework together on fairly tight timelines. And I think for this group, we don't expect that there's going to be—and it really requires that every group do this consistently, or else the agenda ends up being driven only by those who end up doing their homework. And that's a problem for balanced representation here.

So of course, we welcome people who feel—Theo saying he was never a fan of the homework sessions. Please do speak up if you feel like you're ready to take that on. But unless we hear otherwise, we'd like to go with the approach that's more focused on doing work on the calls themselves.

And Keiron is asking—Keiron, so let me just repeat the proposal. The idea is that, so let's say our next call is on—I mean, obviously, ICANN 75 is coming up. But let's pretend that next week was a

regular working group call and we were moving on to recommendation three. This is not true, this is just theoretical.

What we would have is the recommendation three working document ready for you. And at the end of the call, everyone would take some time to go through the comments on recommendation three, the working document, make sure that they understand it, that the working document reflects the key elements that need to be discussed. And then everyone would have time that week to continue to think about it, to jot down ideas and so forth. And then the discussion would happen the following week, and people would just have more preparation time to be ready to discuss those points. Does that make sense? Yeah. Theo, please.

THEO GEURTS:

I'm not against some homework every week. But I'm not sure if we are at that stage yet where the EPDP was. That was, as you mentioned, a very different PDP. I mean, there was zero progress there. At some times, often, there was zero progress. So it made sense for us as a working group to do a lot of stuff offline, because we couldn't get anywhere online. So that is a completely different situation where we are here. I mean, there is a lot of progress. And I know this is—all these comments, it's a lot to chew on. But I think we can get through the majority pretty—not easy, but it will take some time regardless. So unless this group feels like we are really strapped for time, then I would go for the homework option. But till then, I would go like okay, maybe that's not—we're not there yet. Thanks.

EMILY BARABAS: Thanks. So when you say go for the homework option, you're talking about having sort of offline sessions with your own represented group to prepare essentially your own comments offline, and then just discuss them on the calls. Your preference is to do more of the work on the calls themselves, correct?

THEO GEURTS: That is correct. Because that needs organizing. I know, on EPDP, we had really great people. It was a smaller team. So that was really helping out in setting up all the doodle polls in terms of availability. We had one person who's dedicated to sort of organize all these events. I mean, we get somebody on a payroll to do all the planning stuff. Not sure if other groups have somebody on the payroll to organize all these meetings. But basically, there is some involvement there that makes it sometimes pretty hard for several of us to get to these meetings and get a homework all done. It was a real challenge sometimes to get it all done. And we registrars, we can probably organize, but this group is bigger. So most of the work will be falling upon us, suppose. Maybe. I don't know. Anyways, just saying the process is quite intensive. Thanks.

EMILY BARABAS: Thanks. Helpful to hear that. Steinar, please.

STEINAR GRØTTERØD: I must admit, I'm a newbie in these kinds of work, the EPDP work. But when I present something at the CPWG, I very often get the comment that we're not sure before we see the whole context of what is being proposed, meaning that if you take one of the questions and kind of asked for their input to that one, and all you get back is saying, "We can't say anything before we see the complete change of the policy," that at least sets me or At-Large representatives in sort of a limbo. If you have some idea how to solve that, I'm listening. Thank you.

EMILY BARABAS: Thanks, Steinar. I can start and of course, I'll invite Berry and Julie and Roger to weigh in as well. But I would say, I think this is not the end of the process. This is a step in the process. And every group is different. But if you feel that and the CPWG feels that you sort of need to be empowered as the representative to take that leap, I think this is consistent with what Berry was saying, to kind of engage in these discussions about the public comments. If they feel comfortable with this, and as long as you're consistent with the positions that they've taken in the public comments that they've submitted, like gives you some flexibility to sort of engage in these conversations to try to find the middle ground in the further drafts, and there will still be an opportunity for you to bring draft texts down the road to the CPWG to kind of get final sign off and make sure that they understand what it is that is going to be headed towards a consensus call. Does that make sense?

STEINAR GRØTTERØD: I hope so. Yes. Thank you.

EMILY BARABAS: Sure. And let's keep talking about it. Because it's more art than science. There isn't one perfect model for getting to the endpoint. It's an iterative process. And I think the important thing is keeping that link, keeping your groups up to date, and making sure that you understand the sort of, at the very least the high-level things that your group is valuing and working towards and wants to see in the final product. And then I think the very specific elements of it can continue to be adjusted as the process continues and reaches towards the end.

The more we can resolve early, the better. We don't want, as I said, surprises at the very end of this process. But you start with the big picture and it's like carving a sculpture, right? You start with the broad strokes and then you slowly work towards the detail work. And we're somewhere in the middle at this point. We're hoping a little further than the middle. But you know what I'm saying?

STEINAR GRØTTERØD: Yeah, thank you. Perfect.

EMILY BARABAS: Sure. So that was a very long intro. I hope it made sense. It sounds like we've gotten some positive responses. As I said, for folks who are not here today, we're hoping everyone can encourage them to think about this, make sure they're comfortable with it. And of course, we can adjust the process down the road if that seems appropriate and people are not happy with this,

because ultimately, these work products are to support your work. Any final comments on this? Otherwise, I think we can start to dive into the substance.

Okay, so what I'm going to do is just start with introducing the first key topic here and then Roger is going to do some facilitation of the discussion. But as you are all reading through the comments, there's one key element around the losing FOA that quite a few of the comments touch on both directly related to recommendation two, but also some comments that were more general in nature and some that were also entered under other recommendations, but really tied back to this key theme. And so we've tried to capture those in the right-hand column here with the listing of the ones that are relevant to this theme.

They don't all say the same thing. We're not quoting any text here. This is just sort of a synthesis of some of the ideas that are coming out of some of these comments. So please take this with a grain of salt. But the core idea that we'd like to discuss here is this idea—going back to recommendation two, obviously, everyone knows that this recommendation is about eliminating the losing FOA and replacing it with these notifications. And the rationale is about the increase in TAC security and the function of the notifications.

And what we saw in these comments that a number of people were worried about, and many of whom were registrants, although the BC also weighed in on this, is that domains are an important and valuable asset and that registrants need a genuine opportunity to improve or reject a transfer before the transfer takes place.

Under the proposed procedure, in some cases, the transfer will already have taken place by the time the registrant receives the notice if they want to take action on it. And to some of these respondents, the working group proposal eliminates this check that is important for the safety and security for the registrant and increases the risk of a domain being stolen without the registrant's knowledge, in particular, in cases where someone has access to the TAC to initiate a transfer that the RNH doesn't want.

So I think that that's the core concept that we want to kind of dig into further here. And coming to the discussion questions, what we want to look at is, are these concerns that are being raised here new? Are they introducing new information? To what extent do working group members agree that these concerns need to be addressed in some form? And if not, how can the rationale be strengthened to address these comments in terms of what the working group has decided?

And there's more comments here. Roger, do you prefer if I run through a few of these comments, or do we want to just stop and talk about the high level first?

ROGER CARNEY:

Thanks, Emily. A lot of these comments are kind of intertwined. So I think, especially on this one, I think we can read the other comments, because I think our discussion will probably hit across several of these comments.

EMILY BARABAS:

Okay, sounds good. So the next sort of thematic element—and this was just from one comment, but it was a concern that if it is the case that the losing FOA is eliminated, that some registrars might put in place a backdoor security measure by delaying the issuing of the TAC, which would ultimately be an inconvenience to registrants and make the process even slower than what the losing FOA would have made it.

Another comment, kind of two different comments touch on this, that RFC 9154 states that a transfer is coordinated by the registrant to transfer the sponsorship of the object from one registrar to another and that the recommendation should be consistent with that. And the idea that the losing FOA no longer exists is not consistent with that.

Another element of this concern is about the TAC and the security of the TAC. And we'll be talking more about specific elements of the TAC later when we talk about the TAC recommendations. But because this is so closely tied, we've included it here as well.

The concern here is that the measures to increase the security of the TAC don't sufficiently justify elimination of losing FOA, that the TAC is a very valuable asset and that even with the new security measures that have been proposed, it's vulnerable to theft, or use by a third party once it's been generated and there's different attack scenarios where that could happen, be it through the control panel or stolen by other means, and that the recommendations don't address the vulnerability of the TAC once it's been created.

We can dig into these further. But there are a few additional data points that are suggested for the working group to look at. One response looks at—in the transfer policy status report, the number of NACKed transfers. So that's something that actually I believe was raised on our last call. There are a listing of the number of NACKs on average per year.

Of course, some transfers are NACKed for reasons other than fraudulent transfers. So the working group would need to weigh whether that is actually a good proxy to use, but it was a data point that was mentioned.

And this response also mentioned that Canadian mobile phone providers saw a very large reduction in what is basically the equivalent of phone number theft after introducing something that looks very much like the losing FOA. So kind of comparing to another industry.

The comment also references ARIN's procedures for the transfer of IP addresses, again, using a sort of affirmative consent model. And also references SSAC advice, including SAC 40, which does speak to this sort of consent model being a positive security measure.

An additional commenter mentioned that the working group should consider data from registrars about how many times customers try to stop fraudulent transfers after receiving a losing FOA. So that's another data point that could potentially bolster any recommendations on this topic.

So I think that those are the key comments, or at least key themes. Again, these are not quoted from the comments, these are sort of summarized thematic elements. But these are the ones that are most directly related to that top concern. Unless there any questions, I can turn it over to Roger. Thanks.

ROGER CARNEY:

Great. Thanks, Emily. Yeah, and again, I think that all these are pretty intertwined. And as Emily mentioned, our step here, the green text just below this, we have to think about those things. Is it providing any new information? Do people agree with this in principle? does it make sense? And is there anything that we need to update the recommendation or put in rationale and discussion so that people can see the thought process going into this?

As I look back and think about our Phase 1A discussions? I don't know that there's a lot of new information here. But obviously, this hits on an important enough thing that many people commented, so I think it's important to address and increase at least the rationale or even update the recommendations around there.

So I think that when you look at it, and what our next steps should be, think about those things. Okay, is there new information? Maybe. I guess I've never thought about RFC 9154 in our original discussions. And again, I don't know that that even matters or not yet. I'm not making a judgment on that. I'm just saying I don't remember that coming up.

The other ideas seem familiar to me. So I think that they came up. But again, I think there was enough response here that it makes

sense to review and either update the recommendation or provide obviously better rationale so that it's more understandable. Just think through those three things as we're talking about this. Jim, please go ahead.

JIM GALVIN:

Thanks, Roger. I just want to make a couple of comments very much in line with what you were just saying about this, in part because I've been a strong proponent of security principles in all of these discussions. And so I just want to leave a couple of comments here for folks to think about as you go through these things.

Like you, Roger, or at least what I think that I heard you say and interpreted, I find myself not especially persuaded by most of these comments. I don't believe that there's new information here. I believe that we have put together as a group here a security profile that actually does cover all of these issues.

I could sit here and go through. And I think I would have a specific response to each one of these comments. But rather than approaching it from that direction, I like what you suggested, Roger. And so my second comment that I would make here is, I think what's missing is probably a better rationale, and better explanation of what's going on. Obviously, this looks very different than what's been done before. So naturally, people are going to want to revisit all of the arguments and discussions that we've had in this group and how we got to where we are.

So I think there's certainly some room for expanding on some rationale to explain why what is here does actually respond to the questions and issues that are being raised. And rather than get into the details of the moment, I just want to say it that way. Generally, I'm not persuaded by these comments. I'm not personally believing that there's new information here. And I do agree that certainly to be responsive, we should find a way to say more about why this what's being proposed is a good answer. And I think that that would help. Thanks.

ROGER CARNEY: Great. Thanks, Jim. Theo, please go ahead.

THEO GEURTS: I agree with Jim. It's like people sort of missed the understanding that losing FOA didn't really go away, we just replaced it with a different process a little bit further up in the chain than later on. So it's still there, losing FOA, except it's at TAC creation. So it seems that people missed the point there that it's still there, but in a different shape or form. So agreed. These comments don't really bring anything new to the table. So I agree that a clarification should be better, because the recommendation itself is still pretty good. There's nothing there.

Regarding the data points. Like I said last week, a NACK without the reasoning is not a really strong data point, because you don't know why it was NACKed. On the other hand, maybe it is something for the registrars to think about and discuss about and see if they can get to some kind of discussion among themselves

to discuss like how many domain names thefts really appear and see if we can get some numbers there. When I talked to the registrars and asked them how many domain name theft incidents did you have? Well, I wasn't really dazzled by the numbers. They were extremely low. Not sure if you can get some official stuff there. But moving away from the anecdotal and second guessing, that would be really great. Thanks.

ROGER CARNEY:

Great. Thanks, Theo. Yeah. And I think that's something that I was giving some thought too on, is, to your point, a NACK isn't necessarily a negative thing. It's not because it was fraud necessarily. Obviously, there may be some of that. And It'd be hard to tell which is which. But as you said, the anecdotal, looking at it, NACKing doesn't happen often to begin with. And then only a subset of that is going to be fraudulent activity related. So I think that registrars could probably get numbers, but obviously with some caveats there stating specifically knowing which ones are fraudulent or not would be difficult. Rick, please go ahead.

RICK WILHELM:

Thanks, Roger. Plus one to both of the prior comments there. I think that in terms of explaining it, the key point is that here, if we go to reexplain it, it should be regarding the fact that instead of having the form of authority, as it was said, we're moving it up so that fraudulent transfers don't even really get off the ground because the current incumbent registrar's getting involved earlier in the process.

The one comment that I would like to make that is novel on this is that at the top of the screen right now, there's a thing in there about where a commenter alleges that 9145 is being violated. Anytime people in ICANN land see RFCs being brought up and being violated, they tend to get worried. And as one of the co-authors of 9145, I just wanted to bring up that I would disagree with the commenter in this respect. 9145 is not making a normative statement in that regard with regard to this statement about the transfer being coordinated by the registrant, certainly in a way that would be imposing policy upon the ICANN process. And it's certainly in that regard, the way that the TAC is being used, the transfer is still being coordinated by the registrar. So I just wanted those within earshot to note that I don't think that there's an RFC problem here. Thank you.

ROGER CARNEY: Great. Thanks, Rick. And just for clarity, you were saying 9145, what you meant was 9154.

RICK WILHELM: Oh, yes. Sorry. Sudden bout of dyslexia there. Thank you.

ROGER CARNEY: Thanks, Rick. Okay, any other high-level comments? I think that from those three commenters, it looks like our recommendation's good, they think, and still applies. But obviously, there's some holes, because people are questioning the thought process here, that obviously, some rationale and needs to be better explained.

Then again, I want everybody to think about that. And specifically those groups that wrote comments to these or the individuals that wrote comments, I want them to come on and say, okay, does that make sense? Is it still a bad idea to do, and you're not really making sense and you're not really moving it forward? But if there's language there that can explain, okay, the losing FOA and its formality is going away, but actually, the function can still be achieved X way, something like that. Emily, please go ahead.

EMILY BARABAS:

Thanks, Roger. So we're going to continue with this topic next week. We'll talk about the details of that in a little bit. But I think this is the perfect moment to encourage people to go back and look at the response to the charter question corresponding to this recommendation. I think most of the rationale is included there. Although we'll probably be adding also a rationale section to this recommendation with some additional details. But it would be really helpful for everyone to take a look at that and think about what's missing in that explanation, what can be clarified?

And especially as it addresses the specific concerns, which are if multiple people have access to the control panel, that also means that multiple people have access to the TAC, there could be cases where the registrant doesn't want everyone who has access to the control panel to initiate a transfer or might not want that specific transfer. I think that that was a theme we're hearing, that there's not a way for them to say yes or no to that if you move things up to the TAC level, and also that someone could potentially steal the TAC and the registrant might not get the notification quickly enough to stop it.

And I think the sort of third element that we want to make sure we address is the concern that after the fact, some sort of either fast undo if that ends up being a recommendation or dispute resolution process is not the equivalent of stopping a fraudulent transaction before it happens, that it's preferable to stop it before it happens and remedy it down the road.

So I think those are the elements that we want to make sure that we address if the recommendations stay as they are. And we would certainly appreciate help in thinking through the best way to explain to the working group or to the reader of the report, how those things are being addressed. So a good thing for everyone to start thinking about as we head into next week. And hopefully we can flesh out some of the details of that rationale next week on the ICANN 75 session.

ROGER CARNEY:

Excellent. Thanks, Emily. Yeah, and something that Emily and Julie and Berry, staff can think about, is—thanks, Emily, for pointing out the rationale in the working doc, which all of our discussions go out for public comment so that all those things are in there. You know, maybe the idea is not necessarily what's in there, but worded more to the questions that are comments coming in.

Even if we read the rationale, and it seems to fit, someone didn't read that or someone didn't read it that way, and responses to these comments, suggestions maybe need to be more direct, even if it is in our current rationale. And that's just a thought, because I know that when you read through these at a higher

level view, you see, I think, many of the comments around the losing FOA is talking about removing the registrant's right to NACK it, giving them a time period to NACK it in.

And as some of the speakers have already said, we're not really removing it. But we don't explicitly call it out either, which is called out in today's policy. So I think that that's something that just needs to be cleaned up. And, again, when we had the Phase 1A discussions, I specifically remember moving the two five-day windows into a single five-day window and allowing the flexibility of the registrar to impose its own security measures as a business decision versus enforcing everyone to follow the same path. I remember those discussions pretty vividly, actually. So just some thought there. Berry, please go ahead.

BERRY COBB:

thank you, Roger. And I'm going to pick up on Rick's intervention about RFC 9154. And I think that that is a perfect example of what staff needs from a feedback perspective so that we can adequately document how the group considered the comment.

Not to try to quote Rick's response. But in general, he disagreed that this is a violation of the RFC, and perhaps staff would probably need a little bit more commentary about why it doesn't violate it. But it does strike at the heart of what we're trying to get at.

And so Emily, if you can scroll up to the top of the first row for concern. And I think that this really goes back to Emily's point about how important it is for—unfortunately, the group is stuck

with having to review several documents to get to the heart of how the group is going to respond.

We were looking at this working document to try to—staff's approach to help synthesize or distill these comments into like buckets so that it's easier for the group to react to. And in doing so, so looking at the first row, and I think in particular, the last sentence is kind of what is important here is the working group's proposal eliminates an important security check and increases the risk of the domain being stolen without knowledge of the registrant.

And so the third document that you have to review, in addition to looking at the PCRTs and the numbers, is the rationale to the charter question in the initial report. And if it is shallow and providing a more thorough explanation, I think individual working group responses to each of these blocks will either confirm that we already have the rationale or that we're deficient and explaining the rationale to the charter questions.

So looking at the first row, the change here is that, well, the TAC is not even ever revealed until it's requested. That is a tremendous departure from current state where the auth info code is, in many cases, already made available to the RNH. And so that seems like a possible starter in reaction to that particular comment.

Moving down to row two, registrars can take a backdoor security measure. But more importantly, I pick up on that it's ultimately an extra burden on domain registrants. And that kind of really gets into the 10-minute notification for requesting of the TAC. But also that there is—and as you noted, Roger, these are all kind of

interlinked, and it's difficult to talk about these in isolation. But it seems based on the current recommendations that there's appropriate rationale for why it could be as long as five business days or five calendar days before the TAC can be displayed or revealed, because in some instances, there are things that need to be cured before the successful transfer can even take place.

The third row, as Rick touched on, that was a perfect example. The fourth row and the elimination of the losing FOA, that it's a valid—it's vulnerable to theft or use by third parties once it's been generated. It kind of goes back to the first rationale, or the first row in the rationale, is because the TAC is no longer sitting there.

So as we formulate kind of responses to each one of these concerns, staff will need your help to confirm, is that rationale properly stated in the initial report that's eventually going to get to the final report? Thanks.

ROGER CARNEY:

Great. Thanks, Berry. Okay, any other comments on this? And again, the important part here is that we're hearing that the recommendation seems valid still, even in light of these things. And we need to make sure the rationale, as Berry and Emily are pointing to, that the rationale can address these.

And again, I think that the rationale has to address these. And I think that we can even be more specific in our responses on these to be answering the comments or questions or suggestions and not do it in a, "Well, that's in there somewhere in the rationale" kind of idea.

Again, I think the concern when you look at all this is the commenters believe that our recommendation is removing the ability for the registrant to have a chance to NACK this prior to a transfer occurring.

And I know that we had this long discussion—and I'm sorry that Sarah's not on because I remember going through step by step the different notifications that are being sent. And one of the optional notifications was that—we didn't put in mandatory—was that when someone makes a request for a transfer, the registrar can notify the registrant and at that time, and the registrar has up to five days to do due diligence and confirm that this is a transfer that should occur prior to providing the TAC. And during that time, if an optional notification was sent [about] the request of the transfer, the registrant would be notified and have that chance during that review period.

Now, should that be a mandatory review period? It doesn't seem like it. We had those discussions. It didn't seem like that made sense. When you're talking about the number of domains and the amount of theft that occurs, the majority of transfers are legitimate transfers. So you're not trying to slow down the majority, you're trying to identify the few that may be possible issues.

And again, I think that five-day window—and I think there's one suggestion, or it may be a couple of suggestions, that even this number two, the backdoor idea is talking about that, using that period, and I think that depending on—again, a registrar's concept of a valuable domain, a registrar's reputation, their security risk profile that they want to maintain will dictate if that's a five-day window.

And I'm not too concerned about not processing in one sitting, because that obviously can be handled as well. It's handled today. It auto acts if there's no response. And so I don't know that that's that big a deal, because you can still handle it in one sitting, I think.

But again, I think that as you go through this, it seems like our discussions and rationale makes sense to this, but I think we have to be able to specifically answer these questions or comments.

And to be honest, I think the big thing is getting the groups that mentioned this and everything else to come on board and say, "Okay, but it still doesn't answer this," or, "Okay, that makes sense." That's the important thing, I think, for this review process, is to get those aired out and make sure that that's communicated back correctly to the commenters. So, Berry, please go ahead.

BERRY COBB:

Thank you, Roger. I picked up on something that you mentioned there. And it is a deficiency at taking, for example, the process swim lane diagram that we used in effect of what recommendation 2 is about is the losing FOA goes away, but it's replaced by this TAC provision notice. And if you don't pay attention to recommendation three, and you're looking at the swim lane as an example, it's not representative of what could possibly happen, because it would make the swim lane almost unusable if we try to account for every variable.

But when you go to look at recommendation three, and specifically 3.2, bullet three, is it contains the following elements must be

included the notification TAC provision, and specifically bullet three is instructions detailing how the RNH can take action if the request is invalid, or how to invalidate the TAC.

In effect, that is the ability to NACK the transfer if the RNH receives this notice and thinks that something is not going—and I believe it was either Rick or maybe it was Jim's intervention that said the traditional way our current state is so engrained in most people's mind that it's hard to make this next step or take the leap to the new process, that while it looks completely different, some of the core components are still actually retained. It's just perhaps more subtle to see that based on everybody's current state understanding.

ROGER CARNEY: Great, thanks, Berry. Jim, please go ahead.

JIM GALVIN. Thanks, Roger. Let me speak from my myself here and just offer a security comment here about what's going on. I think that there is a misunderstanding about the security properties of certain elements of the process that has existed. IT strikes me that that's where the disconnect is as we move from the old to the new.

My general feeling about this—and Berry started to touch on this and you were doing the same thing, Roger, but to call this out explicitly, there really is no difference between the FOA and the notification. It really is a straight up replacement. And it's important to understand the properties that the FOA had and understand

that the notification has the same properties, it neither adds nor removes them.

I tried to make these comments in the chat room, too, I made a couple of these comments about the reality is the first line of defense is the fact that you've logged into the registrar account. That's it. Once you log into the registrar account, all bets are off.

The FOA really doesn't improve anything beyond the notification. And the notification doesn't improve anything beyond the FOA. And an affirmative response to the FOA doesn't give you anything that you didn't already have or didn't already not have. And I think that's the critical thing which has to be explained. And that's what these questions and comments are calling out, that people are misunderstanding or misattributing properties to the FOA. And that's really what needs to be called out. So let me just stop there. Thanks.

ROGER CARNEY:

Thanks, Jim. Just two comments on that. I think you're hitting exactly on what I was thinking. I think a lot of times people get reading recommendations, and they read a recommendation, and it seems like it's kind of in isolation and don't see the effects of the other recommendations.

So yeah, and I think that that's the hard part. Because our rationale may not explain that at all, because we see the interconnections. And we actually need to add in that rationale. So that hey, yes, obviously, the TAC didn't exist up until the time of

the request. So, obviously, it's more secure than it used to be, and things like that.

And again, I think people pull out and can read a commendation and not automatically think of how the other recommendations affect that. And I think that's fairly natural. When people aren't in it every day talking about it every week and having to do homework on it, it kind of gets lost there. And I think that that's the key for us, is to tie those all together so that that's an easier read for them.

I would say, Jim, though, that I think the losing FOA did provide something that we're not requiring today. And it did provide an up to five-day waiting period for the auto ack, during which time the registrant was notified and could NACK it. And our recommendations, there is no specific five-day window guaranteed for the registrant anymore. It's once they have the TAC, that can be transferred immediately. So I think that that's the slight difference between today's losing FOA having a specific five-day window for an ack or a NACK action, where we're not specifically calling out a specific timeframe for the registrant there. I think that that's where it's slightly different from the notification to today's losing FOA.

JIM GALVIN:

May I ask a quick clarifying question? I think maybe I'm missing something here. So there is still a five-day period that's in the system. Right? I mean, the gaining registrar submits the request for the transfer to a registry. There's still five days there before it autocompletes unless the losing registrar acknowledges it right away.

ROGER CARNEY: In today's world.

JIM GALVIN: we didn't eliminate that five day window, did we?

ROGER CARNEY: Yes, we did.

JIM GALVIN: I think I missed that detail. Okay.

ROGER CARNEY: Yeah, and I think that's what these comments are saying, is that five-day window no longer exist. When the gaining registrar provides it to—in our recommendations, when the gaining registrar provides it to the registry, it's done as long as it matches.

JIM GALVIN: Yeah, okay. And in any case, I was thinking to myself, even if you had the five-day window there, a registrar who was a bad actor, which is being asserted in the comment here, they could just auto ack it anyway right away and not wait that five-day period.

So that's actually interesting. I'm now thinking to myself that's an interesting thing to comment on here. That really does need probably more rationale, if that's where you want to go and you do

want these things to just complete immediately. I'm not sure why I missed that detail. And that's on me. Sorry about that.

ROGER CARNEY: Oh, no problem.

JIM GALVIN: That's actually pretty significant. If that window really is there and it really is like that, I think that's pretty important. Going to think about that some more. But okay, thanks.

ROGER CARNEY: Great. Thanks, Jim. Theo, please go ahead.

THEO GEURTS: Yeah, I personally don't think that is a really big change when it comes to the five days. Like Jim previously mentioned, if these guys get into your account, all bets are off, the same as they can get into your Twitter account or whatever account. As soon as an account takeover, there's a big problem. And I think we need to reflect that in the rationale that even the losing FOA wouldn't counter a real bad actor there. I mean, they will get there. I mean, we see those examples out there, where they register domain names that are previously owned by a registrant and still has access to the mail. We see that all the time.

But what I think the rationale is also a little bit missing is the huge advantage that the current TAC system has as opposed to having all these authorization codes stored into a system. I mean, back in

the day, when that one registrar got hacked several times in a two-week timespan, all hell broke loose, everybody was starting to worry about the domain names and what happened to the auth codes and God knows what. That has some real impact on registrants. And they were worried for the right reasons there.

And if you just don't have a TAC generated, then you shouldn't be too worried about anything, because, okay, the registrar got hacked, there were no—at least a minimal amount of TACs would be up for grabs there. But even then, there is so much of a huge advantage there. And I think we should highlight it a little bit more as opposed to the old situation. That is just a disaster waiting to happen, getting hacked, that will happen to everybody at some point, there's no avoiding that. So I think we should highlight it more that this is a real huge advancement as opposed to the current system. Thanks.

ROGER CARNEY:

Thanks. Yeah, and again, your comment there just led me to think about our earlier discussion about registrars could get numbers about NACKing versus transfers. And obviously, there's some caveats to that, but then you've just brought up other caveats that most likely, if someone got hacked, the hacker has done their job correctly and you're not going to see an ack to begin with, because they've already changed it and they're going to accept it.

And so I think that the numbers could be useful seeing how big a scope it is, but you can't even get to pinpoint it, because you've got so many NACKs that aren't fraudulent, and a number of acks that are fraudulent. So that Venn diagram has just got three big

circles all across each other. So, just a thought there. Keiron, please go ahead.

KEIRON TOBIN:

Thank you. Just to remind everyone as well, we are putting like additional security features in place. And in addition to that, as well, if we've also got the 30 -day lock on as long as it's been transferred, it's also additional kind of protection as the registrar can contact the other registrar and potentially, it will have to remain at that registrar for 30 days. So there are other additional methods that we have put in place to prevent. I understand the five-day window NACK. But yeah, just to reiterate that and just to remind everyone. Thank you.

ROGER CARNEY:

Great. Thanks, Keiron. And again, I remember this discussion quite well about when we went through notifications. And that five-day period that registrars have to provide the TAC which today exists and we're recommending it stay that way, that that five-day window could be—again, it's not mandatory, we didn't say they had to do it, but registrars could use that window as a replacement for the losing FOA, they could send a response to or a notification to the registrant at the time of request. And if they wanted to wait, if the registrar wanting to wait five days to give them five days to NACK it or ack it, they could. It's just we're not making it mandatory for that to happen.

That five-day window, I think, different registrars are going to respond differently in that five-day window, again, based on

registrar reputation, domain value, as it's been seen, and all kinds of things. So I think that that five-day due diligence to providing the TAC will get used differently.

And I think that that's a benefit to registrants as a consumer choice. Maybe they don't want these domains that they they're holding, they're not using, to have that kind of detail put on them. They don't need that kind of security, and they need the ability to move them around, because they're not using them. Or someone that has their whole life built on it may want a registrar that has a different security profile and offers those things so that it can't just be transferred on a request, which today, our recommendation is if a registrar agrees, someone could come in and request a transfer, and realistically within minutes, actually, it can be transferred depending on the registrar's response level. So I think that, again, that's a flexibility that we built in for the purpose of a consumer choice thing.

Okay, great discussion. And again, we're going to continue this discussion later this week, just in a few days, four days, I think, we'll talk about it again, maybe less than that, because time zones have been really messed up. But wanted to jump into our last agenda item. And again, we're not concluding this discussion by any means. We're going to continue this into our session on Saturday Kuala Lumpur time. But I wanted to jump into our discussion on ICANN real quick, if staff could take us through that.

EMILY BARABAS:

Hi, Roger. Thanks. And just a disclaimer on the last hand that I raised, it was actually on the substantive point. But you covered it. I was not trying to rush you ahead to ICANN 75.

So we just wanted to give a little bit of a preview of what's coming for Saturday. So staff has an action item now to take some of these points that were raised, and try to incorporate them into this document as sort of points. And I think we have enough here for some of these comments to actually add rows here about working group discussion and agreement for individual themes here that we can revisit during that session at ICANN 75. So folks can see if we got it right, help to refine it. And that will help us get updated rationale into the report itself. So that is homework for the plane for us. And we'll get that to you as soon as possible. But apologies if it takes a little bit of time given the logistics of the coming days.

I did want to touch on a couple of other things that are in this document that will be really helpful for you to preview before our session on Saturday. We're also going to dive into a couple of additional proposals here that have been put forward on this topic.

Two proposals that are specifically about making the losing FOA optional. So giving the registrant the option to either require the losing FOA or go with a notification process that's recommended by the group. There's a recommendation about making the losing FOA optional if the registrant has two-factor authentication and required if it doesn't.

There's a proposal here—and please go to the PDF because it's longer than we could capture here—about creating a system for making the WHOIS information entered at the gaining registrar

available before the transfer proceeds. So allowing the registrant to make a decision with additional information, being able to compare the before and after WHOIS. Of course, that would only be displayed with the consent of the registrant. And according to this proposal, that could be done under GDPR. So we'd very much like your opinions on that and whether that's desirable, feasible and so forth. The more specific folks can be, the better, is kind of what we keep driving home. We really want to be able to speak directly to these comments and explain why the working group agrees or disagrees with those points. This last one is just a consideration to think about this elimination of the five-day period when looking at the fast undo. So I don't think that any action is needed there. But please do review the comment.

And then finally, we're also going to share with the agenda, which we'll send shortly after this, specific comments on elimination of the gaining FOA. There's only a few. But one of those is a proposal involving an alternative to the TAC. And we'd like everyone to review that. It's in the Leap of Faith comment. And it proposes a completely different system to the TAC, and we'd like everyone to really think about, is this proposal feasible? Is it desirable? What would be workable about it, what would be not workable about it? And I'm just going to pull up the—so please take a look at the agenda that will circulate shortly, which will have those specific items to read, but it's here, the domain name transfer transaction ID. So we'd really like everyone to look at that and really think about some of the details from a security perspective, from an operations perspective, and so forth, is that feasible? And that'll be part of the discussion as well, time permitting, at ICANN 75.

With that, I will turn it back to Roger to close off the call. And happy to answer any questions. Thanks.

ROGER CARNEY:

Great. Thanks, Emily. Yeah, and really, I want people to take a look at this section E. We've never discussed this as a Phase 1 A—that I remember anyway—flipping the process around. Does it work? I don't know. I think that that's a discussion we need to have.

But I think that when I read this, I poked out a few—to registrars, and people have thought about this previous, so I think that that's good. And we should be able to have a good discussion on that about how it works and how it doesn't work. But I think everybody take a read of this so they understand this opposite kind of transfer process and see if it can spur any good ideas as a whole or even individually pieces of this.

So I think it's important to read this before Saturday because we'll cover this on Saturday in our discussions about the losing FOA. So again, please read this and be prepared to discuss Saturday.

Other than that, I think we are at time, so I will say the meeting is done. And we'll see some of you in Kuala Lumpur. We'll see the others on Zoom. Thanks, everyone.

[END OF TRANSCRIPTION]