ICANN Transcription

Transfer Policy Review PDP WG

Tuesday, 06 June 2023 at 16:00 UTC

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JULIE BISLAND: Good morning, good afternoon, and good evening. Welcome to the Transfer Policy Review PDP Working Group Call, taking place on Tuesday the 6th of June 2023. For today's call, we have apologies from Raoul Plommer (NCSG), Zak Muscovitch (BC), Osvaldo Novoa (Council Liaison), and James Galvin RySG). They have formally assigned Juan Manuel Rojas (NCSG), Arinola Akinyemi (BC), and Carolyn Mitchell (RySG) 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.

Statements of interest must be kept up to date. Does anyone have any updates to share? If so, please raise your hand or speak of now. And seeing no hands, all members and alternates will be promoted to panelists, observers will remain as an attendee and will have access to view chat only. Please

remember to state your name before speaking for the transcription. Recordings will be posted on the public wiki space shortly after the end of the call. And as a reminder, those who take part in the ICANN multistakeholder process are to comply with the expected standards of behavior. Thank you. And over to our chair Roger Carney. Please begin, Roger.

ROGER CARNEY: Thanks, Julie. Welcome, everyone. Again, this is our last meeting before ICANN77 next week, then our next meeting will be Thursday of next week. So, we'll slide it a couple days from our normal schedule. Anyway, we're actually meeting, I think, almost at the exact same time 15 minutes earlier than this, I believe. Thanks, Rick. Yeah, I think it's the 10:45 on Thursday. It's a late meeting one, but at least it's not an afternoon one when everybody's [audio glitch- 00:02:08] Thursday morning.

I don't have any updates for the opening here. I'll just open the floor up to any of the stakeholder groups that have had any conversations that they want to bring forward or discussions or questions that they've come up with for the group. This group can help answer or take a look at. So, I'll open the floor up to anyone? Okay. I think we can probably just jump into our agenda then, and do a quick recap of what we discussed the last meeting or two, and where we're at, and what we have left before next week. Again, most of our next week will be just confirming and going over our responses to our target questions, so we would be in a good spot and have everything documented for that.

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So, let's go ahead and jump into the recap of last week, and that's mostly that dealt with a few items that we're going to cover today yet. So, two of the items that we want to still look at is the third charter question and the spin off that we've taken from that of the registrar dispute mechanism possibilities. Again, we had some homework to look at the couple the two or three use cases from the IRTP days. Again, still seemed valid today, at least when I read through them. And part of that homework was not just to read these, but also think of other ones, but we'll get to that discussion in a bit, but just what we wanted to get accomplished there.

And we did some, we did, I think, get to a conclusion on the first two charter questions of the TDRP, g1 and g2. And I believe Staff sent that out yesterday for a review, the draft responses to that, and to think the five, four or five TEAC chartered questions as well was sent out. So again, please take a look at that, read through those. Again, one of our goals will be to get through those and get commitments on those next week so that we can get them drafted in final language for everyone to start reviewing and putting holes through them.

Other than that, I think that was the big things we had. Oh, the other item that we did talk about, and again, we're going to talk about later here is the charter question around good data stewards, so around data minimization and data privacy and things like that and are we sticking to those? Is there anything we need to do to better make the policy better in lines of those data items? Again, stewardship of being a good steward toward any of the data that we're housing. And we did talk about those a little

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bit. We'll bring those back up today as well. So, I think that was all we had for bringing forward. Caitlin, do we want to pull up? I don't know if there's anything to show on the project update. The work plan, yes. Thank you.

CAITLIN TUBERGEN: Thanks, Roger.   This is Caitlin Tubergen from ICANN Org speaking. And the project work plan should look pretty similar to what we shared last week. As Roger noted, we spent last week's meeting going over charter questions g3 through g5, and coming out of that discussion, you'll see the two action items highlighted here in green. And Roger just pointed out what those two were, but essentially, we had asked the group to review the use cases that the IRTP working group Part D had come up with in terms of potential gaps for registrant-initiated transfer disputes.

And also, we discussed charter questions g4 and g5, which as Roger noted, dealt with the stewardship of data in terms of data minimization and privacy by design, and that the group was asked to review the slides as well as the actual text of the policy itself to see if any of the data mentioned a policy that is to be transferred either to the provider, to the panel, or to either of the parties raises a red flag. What may not be necessary, for example, or if there was anything missing or of concern. So, those were the action items.

And then, again, as Roger noted, today we're at meeting number 94, which I have highlighted on the screen and we're going to continue the discussions of charter questions g3 through g5 coming out of last week and discussion of the group's homework.

And Roger did note that we transmitted to you yesterday the draft responses to the TEAC related charter questions, as well as the first two TDRP questions, g1 and g2, which were essentially about, is the TDRP fit for purpose and are the instructions regarding the documentary evidence or what parties are required to file along with their complaint user friendly or are there any gaps that the group identified?

And so, based on the previous discussion over a couple of weeks ago, Staff took a first cut of drafting those responses, but they have been sent out in the form of a Google Doc and everyone in this group has the ability to comment on those. If you believe the conversation wasn't captured correctly, or you just prefer different choice of terms or notice grammatical errors, you're welcome to point that out as well, but we just wanted to share those as soon as they were available.

I think we also mentioned last week in discussing the call, and we'll also touch on this a little bit later in today's call, that we'll be using our session at ICAN77 to recap on the agreements, the preliminary agreements coming out of the two topics of TEAC and TDRP and use that as an opportunity to share with the community and those in attendance at that meeting both remotely and in person where the group is headed for those charter and if there's any feedback from the community after receiving an update on those preliminary agreements. So hopefully that covers the project work plan, but does anybody have any questions? Great.

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ROGER CARNEY:	Thanks, Caitlin. Yeah, and again, talking about ICANN77, I really want to use that session, as Caitlin mentioned, to confirm and know and be able to ask questions on those items, but I really want to use it as that maybe that last step before we get this TEAC and TDRP behind us and we can get moving forward. I know we'll have some edits that we'll need to follow-up with, which is okay, but I want to start moving past the TEAC and TDRP as soon as we can so we can get on to our other discussions of bulk and change your registrant. So, I think let's plan to be ready for next Thursday and, hopefully, we can get agreement and move on from these. And again, I don't think there's anything too controversial. We do have a few items that we'll cover today that hopefully we'll wrap up on any other open discussion.
	Okay. I think we can go ahead and jump into our g3 discussion. Again, I think that for the big part of g3, I think the answer was fairly straightforward. The spinoff of this, I think, came as it did the IRTP D looked at. Is there a registrant dispute mechanism necessary or path or whatever it is? Maybe it's not even a full-blown policy or anything, but just something that's recognized for registrants to be able to do. And then there were several members of our working group that provided some support in that idea in thinking of maybe this is something that the GNSO should look at and should pursue. Again, I don't know that if it's into our charter or anything, but we can definitely recognize that there was some acknowledgement that existed.
	And, again, I think the goal here was using the IRTP D use cases as a stepping stone. Are there other use cases, which we haven't seen anybody provide yet? So, I don't know if there are other any

use cases. So, I think that's our number one objective here today is to tease out if there are any other use cases, in this that we should at least forward on for our thought process moving forward.

So, I think that anyone have anything on g3 as far as additional use cases? And, again, how much support do we have I think is key to do we provide any kind of text in our report that suggests that the GNSO will look at this or take some time to review or whatever it is. If we don't have a lot of support for it, I don't know that we need to put text in, but if there's some general support here, I think we can put some text in asking for the GNSO to look at it and again, maybe they decide that's not necessary or not within the realm right now. So, what they find I think that's beyond scope of our group to determine. So, I think we just noticed that there is a potential gap.

Any other comments on this? Thoughts on other use cases? Anyone have any other--? And again, I think these two do still hold up. I think that these items that IRTP D documented still exist today and actually, I've heard quite a bit. I just I think that the goal was if there was anything else anyone saw. Again, several members mentioned that registrar dispute was a good idea, but we'll need supports for language for itself. Anyone have anything?

 Thanks, Eric. Thanks, Sarah. These two do cover quite a bit of the scenarios that in a general fashion, which occurs. Thanks, Owen. And, again, we're going to touch on this next week, so be prepared to talk about this. And if you're supporting, at least a look at a recommendation or some text in our report, please come next week and provide that support saying yes, we should probably notify the GNSO Council that there is a potential gap.

Okay. Well, that was good and quick. I think we can move on to the next one, Caitlin. Maybe I'll have you review this again, Caitlin. I know you went over a lot of this, and we don't have to probably do as much detail, but maybe I'll have you run through 4 and 5 because as you mentioned last week, they're tied together pretty good. Can you do that for us, Caitlin?

CAITLIN TUBERGEN: Sure, Roger.

ROGER CARNEY: Thank you.

CAITLIN TUBERGEN: You're welcome. Hi, everyone, Caitlin again. So, as Roger noted, we did discuss these a bit last week, but I'll provide a little intro again in case it's helpful. The charter questions g4 and g5 deal specifically with changes to data protection law that occurred in the interim between the last review of the transfer policy and today and the EPDP on registration data phase 1 did a lot of work on reviewing the processing of registration data and what may no longer be necessary in the current data protection climate.

And so while these charter questions look at data protection and data processing, we're not expecting everyone in this working group to suddenly become an expert in data protection, though I know some of you are, but what we're really looking for here is a review of the transfer dispute resolution policy with an eye toward

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are any of the data points mentioned in this policy problematic for any reason.

So, for example, the policy allows a register or a losing register or gaining registrar to file a TDRP complaint within 12 months of an alleged breach of the transfer policy. And what this table that you can see on screen lays out is the data points mentioned in the policy that are in relation to what a gaining or losing registrar will include in their complaint, which may or may not include personal data. And also, what additional things may need to be appended to the complaint, as well as the information that will be transmitted to the panelist who will ultimately make the determination whether a violation of the transfer policy did indeed occur. And lastly, what elements are published in a decision by the provider that will go on its website.

So, in this table you'll see some examples. The items marked with an asterisk are items that may no longer be required due to the evolution of the transfer policy. So, for example, In the middle column, you'll see that a gaining registrar used to need to append a completed gaining FOA to their complaints. That is no longer a requirement under the transfer policy, and so, gaining registrars do not need to send that. There has been a red line version of the TDRP that we sent to the group earlier in the group's deliberations as well as last week so that you could look at what the current proposed text looks like with all of these asterisks' things removed.

So, I see that Sarah says, yes, can we remove all the asterisk items? Yes. So, I know, for example, just to open up the floor, last week Theo had noted that you'll see that for both the

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complainant and the respondent, there are certain contact points that need to be included and one of them is postal address. And so, Theo said, maybe we don't need postal address anymore, as long as there's a way to contact, maybe an email address alone is sufficient. Postal address isn't really necessary or in the spirit of data minimization.

So, we had asked folks to review these tables and flag any concerns and we didn't see anything come through on email, but this is another opportunity for the group on the call to express concerns if any or provide feedback to Staff on how to better help you complete this exercise, if there might be something else we can do to carry the conversation forward. So, I'm going to turn it back over to Roger unless anyone has any specific questions for me, I'm more than happy to address those. Thank you.

ROGER CARNEY: Great. Thanks, Caitlin. Yeah. And again, I think, Caitlin also pointed out last week one of the things on this postal address and email and all that. Again, this is a registrar to register function. So that's actually registrar information that's being shared there. So, again, it's one of those where to Theo's point is address really needed, and maybe in some circumstances it is, and maybe that's just a request that can be followed up. Again, I think that's kind of the things we want to look at. Again, when you look at data mineralization, is this necessary all the time.? If it's only sometimes, then we probably only need to provide it sometimes. Items like that, I think, were key on as Sarah pointed out, and Caitlin, the asterisk ones need to be updated as well.

So, I think what we're looking for, especially from the data hawks out there that do enjoy the process of eliminating as much data sharing as possible, it's a great goal to have, and some people like that to look at those things. Does the requirements here in the TDRP, are they fit for the purpose? I mean, is it needed? As Theo pointed out, maybe postal address is something that can be pulled, and only supplied when they're actually required. If the email is not working or whatever or they have to send something via post, then it can be provided. But again, I think what we're looking for is support on, yes, all this is needed or this isn't quite needed. I think, again, support is important as much as there's nothing there. Sarah, please go ahead.

SARAH WYLD: Thank you. Hi. This is Sarah. I confessed to a little bit of multitasking and a bit more confusion. Because did Caitlin say that we already have updated text for this? But, anyways, I think data minimization is not only a good idea, it's also the law in some places and so we should remove the items with asterisks because they are no longer required and if they are required in some cases, then they can be provided in those cases. Thank you.

ROGER CARNEY: Great. Thanks, Sarah. Caitlin, please go ahead.

CAITLIN TUBERGEN:	Thanks, Roger. This is Caitlin Tubergen from ICANN Org speaking, and I just wanted to respond to Sarah's question. So, Sarah, we don't have updated text coming out of the discussion of these specific two charter questions, but what we do have is draft updated text that we reviewed as a group related to Rec 27 updates, which cover some of these instances. So, for example, the Rec 27 updates remove the FOA and also change, remove all uses of the term or instances of the term WHOIS, and change it as appropriate. So, that's what we do have and that's what was sent around to the group last week to see if looking at what the text could look like after those Rec 27 changes going to affect, are there still concerns. And if there are, what would those be, so that we just have a better understanding of how the group feels about that. Thank you.
ROGER CARNEY:	Great. Thanks, Caitlin, for that. Anyone else? Okay. Otherwise, everyone is agreeing. Yes, Sarah. Correct. Definitely take a look at the 27. Caitlin, your hand's still up. Is that an old hand or a new one?
CAITLIN TUBERGEN:	Sorry, Roger. That was a former hand up.
ROGER CARNEY:	Okay. Thank you. Okay. Again, we'll want to hear support as well as this does look good, these items are okay. Where are the post 27 updated texts? Caitlin, do we have a link to that yet?

CAITLIN TUBERGEN: Thanks, Roger. The text or that link was circulated with the action items from last week. So, this is just the consolidated version so that we're not scrolling through all of the language, but we will recirculate that so everyone has the updated version of that.

ROGER CARNEY: Okay, great. Thanks, Caitlin. Okay. And again, we want to hear something more that these are correct so that we can move forward and get that documented as well. Caitlin, you want to roll forward on our next slide here? And I think I'll let Caitlin take us through this.

CAITLIN TUBERGEN: Thanks, Roger. So, as we noted at the at the top of the call, the goal for the ICANN77 session is to provide those who aren't able to follow the work of the transfer policy review working group as closely as this group is, an opportunity to see where the group has landed on responses to charter questions and preliminary recommendations on both the TEAC and the TDRP. And during our meeting in at ICANN76, we thought at least from a Staff side that there was a lot of us talking and not a lot of the working group talking and you all hear us yammer on every week and we thought that it might be preferable to both you all and the audience to hear from some of the working group members about the work the group has been doing.

So, in past working groups, the approach that we've taken when there is an opportunity to get community feedback is to take the

recommendations or the main topics and assign volunteers to present the information just to break up the session a little bit and let some other voices speak. So, what we were hoping to do at least for the TEAC and the TDRP charter questions is to have some kind volunteers who would speak to specific charter questions.

I will say that the heavy lifting will be done by the Staff support team and by that, I mean, we will be creating any materials, slides, as well as talking points and pointing any volunteer in the direction of what the topic is, any notes, and of course that volunteer could put their own spin and voice to the talking points, but we are hoping that perhaps some folks would step forward and speak to some of these so that it wouldn't just be the Roger, Caitlin, Julie, Barry and Emily show, but--

I see that. Sarah said that's such a nice show. And if no one comes forward, Staff will certainly assist, but I think it would be preferable to Roger, Osvaldo and the Staff support team if folks would want to perhaps present and share some of the preliminary conclusions partly because the conclusions do belong to the working group and not to Staff, we're just trying to help facilitate the group.

So, Roger, I'll turn it over to you to see if maybe you can convince some folks to step forward. And then we have another idea after we've gone through a high-level overview of where the group has landed on these questions of how we can spend the remaining part of that session gathering community feedback about a particular topic.

ROGER CARNEY: Great. Thanks, Caitlin. And again, I think the volunteer is here is great. And again, multiple voices are always great, as Caitlin mentioned, Staff and even myself aren't driving solutions here. We're just help facilitating the discussion so that we can get to good solutions and decisions. Again, all those should be coming from the working group, and that's what we want to display as well. And I'm not going to assign volunteers to any of these, but I can make suggestions that I think Sarah is really good at data stuff. She is my data hawk. I always think, does Sarah need this data? If I'm looking at data. So, I think she's good at that and again, Zak and Steiner around the registrant. They've been the most passionate speakers around registrant dispute mechanisms if it's needed or not. And again, if someone else thinks it's not, that's great as well. So, I think that those are the kinds of things we're looking for. Owen, please go ahead.

OWEN SMIGELSKI: Thanks, Roger. This is Owen Smigelski for the transcript. So, I mean, are we looking for, is this going to be like, okay, there's going to be a team meeting on f1 or f2 or whatever, or are we just going to be all kind of having at it or editing it to Google Doc? Because, I mean, I'm certainly willing to provide feedback on all of these. I just don't know if I could commit to meeting times or coordinate with people for all those things. Thanks.

ROGER CARNEY: Great. Thanks, Owen. I'll let Caitlin go. Caitlin, please.

CAITLIN TUBERGEN: Thanks, Roger. So, I can at least speak to Staff's idea here. So, the two documents that we circulated yesterday show all of these charter questions as well as the draft response and any preliminary recommendations based on that draft response. So, all of that information has already at least been preliminarily agreed to by the group. The text hasn't been finalized but for purposes of presenting to the broader community, we're not going to read four paragraphs of text about a charter question. We'll just have some talking points.

So, what Staff can do is take those draft questions, which of course are still in flux, excuse me, draft responses, and pull out some talking points for any volunteer to talk to and we can, in the slides, have some high-level talking points, as well as the draft recommendations and there won't be at least unless anyone believes there should be a need for any sort of meeting. Staff will do all of that work prior to the end of this week and send it out for the group so that anyone that is willing to speak to those points should have what they need and if they don't, Staff is here to support that. So, you can reach out to Staff directly on those.

OWEN SMIGELSKI: Thanks, Caitlin. So, I'm willing to volunteer for all of these. I have a plane flight tomorrow across country that I'll be on, so I can amuse myself by filling out this document offline because I certainly have thoughts based upon my compliance as well as domain name registrant, as well as a registrar perspective. Thanks.

ROGER CARNEY:

Thanks, Owen. And really, what we're looking for here on the volunteer side is just someone to take the mic at the meeting and bring that topic forward. So really, those ones that you're passionate about, Rick talked a lot about the four-hour time frame and others did as well and the gaming possibilities, and really, we're just looking for someone to bring those key points forward during the meeting.

Exactly, Owen, I don't think you wanted to do that, but. So, yeah, it's just those few items and again, the ones that you support or you even have questions on it is great as well. Just to bring up topics, and as Caitlin pointed out, Staff will put those bullets together and run them by each of the volunteers, and if the volunteers want to edit them or add to them, as long as it's what the working group has talked about, great. And if it's not, you can provide that color as well at the time. Sarah, please go ahead.

SARAH WYLD:

Thank you. Hi. This is Sarah. I am happy to speak to any of these points I'm not particularly concerned about which one. I like f5 best just because I do. So, I'll take that one or whichever one is convenient but I have no time to prepare because I'm leaving tomorrow and I will not be thinking about work until Monday. Thank you.

ROGER CARNEY:

No. That's great.

SARAH WYLD: Thank you to the staff team for all the prep work you're going to do for us to make us look smart in public. Greatly appreciated.

ROGER CARNEY: Great. Thanks, Sarah. And again, there's another slide here that shows-- These are just the TEAC ones, and we have the same for TRP one, so we'll want people to pull in those as well. And again, Staff will put the talking points together. It's just we would like to hear from Cheryl with the working group to the public is doing the work and make sure that the work is being driven by the working group, not Staff or the chair or anything. I thought Cheryl would like g4 and 5.

Again, we don't have to sign volunteers now. Owen assigned himself to all of them, so that's great, but just joking aside there, he's not going to take them all. And Sarah has put her name on a couple of them. Caitlin, if we get responses back from everyone by Thursday, is that good? Thanks, Jothan.

CAITLIN TUBERGEN: Yes, absolutely.

ROGER CARNEY: Take a look at all these charter questions and if you feel like that's something you want to talk to or can talk to, please put your name on it, and let us know, and again, staff will work with you on

getting those bullets. I'm sorry, Caitlin, that I cut you off. Please go ahead.

CAITLIN TUBERGEN: Oh, no, Roger. Thank you. Thank you for explaining to Owen what I meant and the rest of the group as well. What we can do is send out or make a Google Doc and let people put in their names for any question they may be interested in speaking to. And you'll notice that in g3, this is about the TDRP being insufficient and if there are any additional mechanisms needed to supplement the TDRP, rather than have one person present on this, we had leadership discussion about this topic in particular since it's about the registrants' access to a TDRP-like mechanism.

What we thought could be maybe an interesting exercise to get community feedback is to have two volunteers. We may be asking Zak to step into one of the volunteers and maybe Steiner will be other, is to talk about what that registrant mechanism could look like and what some of the pros and cons of opening it up to registrants could look like to get the discussion going and having like kind of debate or rather than just reading text up to the audience. But I know that we had talked about, I think maybe two weeks ago, that irrespective of where the group lands in response to this question, we would definitely want to flag a specific question in the group's initial report asking for community feedback for dispute resolution experts or common filing parties or registrants, registrars, anyone that would have any stake in this to provide feedback about what the group may or may not be missing.

So, we thought that could be a good way to present the information to the public. If anyone would be interested in participating in that, you're also welcome to raise your hand or we can try to convince some folks to participate in that discussion to make it a little more interesting than the standard slideshow with Staff talking.

ROGER CARNEY: Great. Thanks, Caitlin. Okay. And again, we've got a few volunteers that we can start filling in some names here but, as Caitlin mentioned, we'll create a Google Doc with this in here and let's choose by end of day Thursday, take a look at this list and put your name in there. Thanks, Steiner. And put your names on there. And, again, Staff will work on getting the bullets to you, and working on getting the talking points that you feel comfortable with. Okay. Great. Caitlin, what is next?

CAITLIN TUBERGEN: That actually concludes our agenda for today.

ROGER CARNEY: Wow. Excellent. Well, actually, that's a good way to end the pre-ICANN week, I guess. It is nice and early. And again, please take a look at this. Staff will get a link out to us and take a look at and put your names in where you feel comfortable and try to get that done before end of day Thursday so that Staff can identify who they need to work with on those points. Okay. Caitlin, anything else we need to cover before we call it?

CAITLIN TUBERGEN: Well, I was going to make polite a suggestion to the group that since you have an additional 50 minutes of time, perhaps a fun way to spend that time would be to look at the homework from last week about going through the TDRP and seeing if there are any big red flags with any of the information with that eye toward data minimization and privacy by design since we haven't heard from anyone on those topics yet.

ROGER CARNEY: Great. Yes. Thanks, Caitlin. You guys spend as much of the next 45 minutes that we freed up for you on taking a look at those. And again on the slide, we pulled out most of the information everybody needs to look at and I think the key is just take a look and make sure it still seems that data is needed or as we indicated on some of it may not be needed.

Okay. Anything else from anyone? Otherwise, we will give 45 minutes back of everyone's day on short week before everyone takes off for ICANN, those that are going. Great. Well, thanks everyone, and hopefully I see most of you here next week. Otherwise, I will talk to all you next week. Thanks. Bye.

JULIE BISLAND: Thank you, Roger. Thanks, everyone. Have a good rest of your day and see you all next week.

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