
ICANN Transcription

Transfer Policy Review PDP WG

Tuesday, 26 September 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 26th of September 2023. or today's call, we have apologies from Sarah Wyld (RrSG), Richard Wilhelm (RySG), Steinar Grøtterød (At-Large). They have formally assigned Rich Brown (RrSG), Carolyn Mitchell (RySG), Lutz Donnerhacke (At-Large) 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.

Statements of interest must be kept up to date. Does anyone have any updates to share? If so, please raise your hand or speak up now.

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All members and alternates will be promoted to panelists. Observers will remain as an attendee and have access to view chat only. Please remember to state your name before speaking for the transcription.

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.

ROGER CARNEY:

Great. Thanks, Julie. Welcome, everyone. I think not that it's October quite yet, but we are just a few short weeks away from ICANN 78. So we will have just two more meetings scheduled after this prior to everyone heading off to ICANN 78 for those that are going. So hopefully we can get everything wrapped up and we can get moved on, get our bulk discussion and our partial portfolio move discussion completed to a spot where we can get our recommendations down and move forward with those. So we just have a few things. Hopefully the survey that a lot of people took last week, early this week, will help us get to a better spot than we were. We just had a few outline things. Still on a couple of them, we'll go over all of them, but on a couple of them, it still didn't quite get us to the end. So hopefully a good discussion today will allow us to do that. Other than that, I think I'll just open up the floor to any stakeholder groups that want to bring anything forward that they've been discussing or talking about offline that the group should be aware of or can maybe answer any questions. So I'll open the floor up to any of the stakeholder groups.

Okay. I think maybe we'll jump into this and maybe I'll turn this over to Caitlyn so she can just do a quick preview of what the survey questions were so that we can have all those in our mind as we go through them individually. But Caitlyn, can you walk us through those?

CAITLIN TUBERGEN: Yes. Thank you, Roger. This is Caitlyn Tubergen from support staff for the record. Before I walk through the questions, I'm just going to do a quick reminder of the options that we discussed last week. Since the first question on the survey was to rank the preference of how the fee should be handled in the ICANN approved transfer situation.

So just so that everyone is aware, the first option in the survey was to leave the current language as is, which I think all of us are quite familiar with right now. But essentially registries for transfers involving 50,000 names, the registry operator will charge the gaining registrar a one time flat fee of 50,000 US dollars. That's the current language. Option one is to remove reference to the fees entirely. So what you'll see here is the language is identical to the current section two, but the second sentence is removed. And sorry, the second sentence is shortened and the third sentence is removed. There's no longer any reference to the amount of domain names or a fee associated with that. Option three was to remove the price ceiling and instead include language around the registry may charge the gaining registrar a reasonable fee for enacting that change. So removal of price ceiling, addition of reasonable. Option three is what the group has been talking about over the past few weeks and kind of been tinkering with the

language, but it's to retain a price ceiling, not necessarily the current one, but a price ceiling, adding language around apportionment of fees. So in other words, whatever that price ceiling would be, the total fee charged to the gaining registrar amongst all affected registries could not exceed that price ceiling and then adding language around the involvement of ICANN. So ICANN noting to the registry operators, maybe what their percentage of the total names was to help with that change. And last, option four, was the option that we went over last week that staff kind of had a creative think on it and just added for the group's consideration, which is to have an algorithm based method where there's no specific reference to a dollar amount so that there's flexibility with registries, but there's some sort of transparency around what can be charged. So what we added, and again, everything's bracketed because this is not agreed to, is the fee cannot exceed a certain percentage of the wholesale price for the domain name so that there would be at least some sort of notice to the registrar about what a fee could look like for this type of transfer.

So we presented those options and then wanted to survey the group after the group had a chance to digest what the options were that were on the table. So the questions in the survey were to rank—And again, this is the technically five options, leave language as is, remove fees, remove price ceiling, retain the price ceiling, but add language about apportionment, and then do some sort of algorithmic based approach. We also pulled the group on if there is option two, which is that the registry may charge a reasonable fee, does the group believe that a price ceiling should be included or not? And that was a suggestion based on some

working group feedback last week that the group likes the idea of reasonable fee. But that there could be another option where it's reasonable, but it shouldn't exceed a certain amount so that there's some sort of transparency involved there. And then we asked if the group believes there should be a ceiling, why should there be a ceiling? And that question's really getting at the rationale behind any change to the recommendation. Similarly, if you don't think there should be a price ceiling, why is that? Then we asked the very direct question is, if there is a price ceiling, what should it be and why?

The next set of questions is based on that option four, the algorithm-based option. And that's really looking at the numbers that staff plugged in. And again, this was just for discussion. Are those appropriate or should those be changed? And if so, what should they be? To see if there was any sort of alignment on that. Also, we talked about in the algorithm based example, having a proposed cap to the number of domain names. That was inserted in the example to not deter large bulk transfers so that if there was a huge transfer, we didn't want to create an issue where large bulk transfers wouldn't happen due to a very high fee or if that could be a concern or not. And then there was also a question about should there be a domain name floor? For example, should it be the algorithm is only noted in transfers involving more than 5000 names, etc., or not? And if so, what should the floor be? If there's a cap, what should the cap be? And then a topic that came up last week was who should be responsible for paying the registry fee? Currently, the language and the transfer policy notes that the gaining registrar should be responsible. And we talked about the idea being that the gaining registrar, at least in voluntary

occurrences, is presumably inheriting a new group in addition to its portfolio. And the losing registrar may be going out of business and may not be able to pay that type of fee. And then we had an open question of, are there any other concerns with the discussion on full portfolio transfer fees?

There are two other questions. I don't know if it's going to let me show them since there's some mandatory questions to respond to, but the next two questions were about specifically partial portfolio transfers, change of sponsorship, BTAPPA, we've been kind of referring to it in different ways. But those questions we're getting at the question that's been on the agenda for the past few weeks about the recommendations that the group has tentatively agreed to. If those recommendations should be treated as new additions to the transfer policy, meaning they would apply to all registry operators. Or would those recommendations be added to the baseline BTAPPA, meaning those additions would apply to registry operators that choose to offer the BTAPPA, but not all registry operators would be required to offer that, if that makes sense.

So without further ado, I can show what the survey feedback came back as at a high level. And then I will stop talking and turn it over to Roger to discuss, kind of break down the questions a little bit more and see if the questions sparked any thoughts from the group or how we can perhaps get better aligned on how the group feels about these questions.

So we received 11 responses to the survey. As you can see, the first question was the ranking of the methods, and there was a split. Blue is everyone's first choice, so some believe that

language should just stay as is. Some believe that fee should be entirely removed. It looks like the most popular choice was option three, which was the retaining a price ceiling, apportionment of fees, plus ICANN involvement. But again, as you can see, there wasn't really a true consensus or overwhelming majority that people supported here, so we can talk a little bit more about that. This question, there was a clear majority here, which is if there is a reasonable fee or that language is added, should there be language about a price ceiling? And approximately 90% of the group or the overwhelming majority believe a price ceiling should be included. And the reason being, some believe it's for transparency. Some are concerned that really high fees could be charged if there's no parameter provided. And then someone noted here that emergency situations should not be abused for gain and the charges cannot be passed on. And someone also noted it would ensure additional register competition to obtain domain name portfolios.

For folks who don't believe that a price ceiling should be included, the reasons are some of the reasons that we've talked about, the main one being that including specific pricing and policy language is restrictive. It's very difficult to change. And so if there's any fluctuation in the market going forward or something that we're not anticipating at this moment in time, it's hard to change. So that's kind of a deterrent for including any sort of specific pricing. And also someone noted that if the working group does come up with a price ceiling, that it would be de facto reasonable, kind of defeating the purpose for having a price ceiling.

So as you can see from the colorful pie chart here, when asked what the price ceiling should be, 40% of the group think that the current language should be retained, which is \$50,000. And 60% are very divided on what that should be. So we have one participant saying \$5,000, one participant saying \$10,000, one participant saying \$25,000, one participant saying that it would be helpful to understand what is involved in a registry effecting this change. Because without knowing that, it's not really, it's hard to assign an appropriate fee for that. It really isn't, I guess, one of the participants felt uncomfortable. Also, a couple of participants that noted it should be really a nominal fee closer to like under \$500 in noting that that's the price that ccTLD registries typically charge. And then someone noted that it should be really the cost of effecting that change, which this participant noted is around \$100.

The questions around the algorithm also, as you can see, were quite split in terms of what the pricing should be. Half of the participants said they need more information to answer that question. They don't want to dictate registry pricing and don't really have an answer or the answers provided, none of them were appealing to that participant. And then the other four answers were based on the options, so 0.05, 0.5%, 1%, and 5%. So really no consensus on what that should be.

Again, there's a big split here in terms of if there should be a cap. 60% say no, 40% say yes. Same, there's a pretty clear split on if there should be a floor. 50% say yes, 45% say no. If there is a floor, what would be the appropriate trigger for the fee? And the current floor is \$50,000, so half of the participants noted that

would be the appropriate. 25% say no floor, some say it should vary, and then one or two said \$10,000 would be appropriate.

Again, the cap is also quite split, so there really isn't a consensus here. We asked the question who should be responsible for paying the registry fee. Approximately 90% said the gaining registrar, which aligns with the current language, and then I believe one participant or one or two said the losing registrar should be responsible. Additional concerns that the group shared, this should really be a discussion between contracted parties. We just need to ensure that the registrars aren't harmed in these types of transfers. Someone noted that a single registry solution should not be the only option considered. Transferring usually involves multiple registries, and that's what almost always happens. And then a participant noted that flexibility should be granted to waive fees when there's a registrar stepping up to take over registrants of registrars that have failed business, inability to continue due to disaster or war or other disruptions.

I will note that we did have a discussion about this particular issue. The current language says that the registry will charge. We changed that to the registry may charge. We did have some language that the registry must waive in certain instances, but I believe that didn't receive strong support of the working group, so that's why we currently have the language may waive. And then we used examples that the working group talked about where the waiver of the fee would be encouraged.

And then the last two questions are regarding the partial portfolio transfers of the BTAPPA. Approximately 82% of the group says that these recommendations should apply to all registry operators

via the transfer policy, and then approximately 18% noted that they should only apply to registry operators who offer the BTAPPA via updates to the BTAPPA service. And then the other thoughts communicated are if the BTAPPA was a viable solution, we would not have had the current discussions on the subject. Most registries do work together, but there's no guarantee for the future. There needs to be an opt-out. In addition, no transfer locks to be set due to a BTAPPA, need broader policy language to include cases beyond portfolio acquisition, and the BTAPPA needs to be universally available. And that really concludes the responses to the survey.

I will note that I think we did receive responses from most of the groups. I don't think registries, registry reps responded to the survey, which is obviously important for these questions in particular, but also the others. So we are interested in hearing feedback from the registry reps on some of these questions and where the group landed, but I'm going to pass it back over to Roger to get the discussion going on some of these questions and see if folks have additional things to add about their responses.

ROGER CARNEY:

Thanks, Caitlin. And again, thanks everyone that filled this out and took a look at it so that we can have a good discussion on it. As you can see, the majority of questions dealing with the fee structure option of a full transfer, an ICANN approved transfer, just the last couple questions being on the partial portfolio move. So, again, the two big outstanding questions for us really is, is there a fee structure we can come up with for a full portfolio move? And the other big question is, where does partial portfolio moves

reside? In policy or left in the current BTAPPA optional RSEP function that a registry could take on. So, again, those are the two big questions we have outstanding. So most of this spent time on the fees of the full. So I think we can kind of see where this is going. And maybe, again, it doesn't provide the one thing, but it does narrow down, I think, our options and maybe we can pose in our report here some options for public comment to review. I think the more concise we can be, the better responses we'll get from public comment questions. So it's important to get down to a narrow focused question for that. So before I jump in, I'll let Jim go ahead. Jim, please go ahead.

JIM GALVIN:

Yeah, thanks, Roger. Jim Galvin, Registry Stakeholder Group, since we've been called out several times in the presentation. And thank you for all of that. I would say it's fair to say that with respect to the first half, and the pricing rate structure and all of that. You know, the registries don't really have a strong opinion about that. You know, obviously, if you want to remove and just change it to a reasonable fee, all of that's fine. I think it would be fair to say that if there is going to be any kind of fee reference, not changing it is a preferred thing. So it should stick to the 50,000 DUMs and 50,000 fee. And so we're letting the registrars kind of sort out what they think works for them to see if we want to want to commit and object to anything. But frankly, kind of what's there is fine. So we're waiting to see if the registrars are going to go off in a somewhat different direction and do something different.

I will observe one point though, in all that which has been mentioned here, for folks to think about, and that is whatever the

fee structure is that is created, one change that is important, and it is covered in the option three of the set from before, is the notion of basing any number like 50,000 DUMs on the number of domains moving and that the fees will be apportioned to the registry operators that they go to, as opposed to being based on 50,000 having to go to one registry operator. I do think that's an important change, given the change in market, and you know, the number of TLDs and such. So that's one piece. Let me just pause for a moment, see if you want to jump in for any clarity, and then I'll respond to the BTAPPA question.

ROGER CARNEY:

Thanks Jim, yeah, and I think that's good, and to your point on that, I think number four kind of deals with that option, or deals with that as well, and that the registry will only charge for those that are being moved to them, or moved by them. So, well, I thought Jim is, and maybe you guys can think about this as putting my non-registry registry hat on, to me, it's one of those where the 50,000 domains under management, or 50,000 domains being transferred. The number to me seems odd, just in the fact that if it's a few domains, maybe the price is different, but when I think about it, and I say, well really, if I'm transferring 1,000 domains, that's almost no different work than if I'm transferring 50,000 domains. And then again, I'm just throwing that out there, just trying to think about it. Obviously, there could be some more expenses in verifying and things like that, but when you look at the engineering costs, it seems like that would be similar. And again, to me, the 50,000 domains just seems odd. The \$50,000, to me, I

don't know about that. I'm just thinking the amount of work that has to occur to move a domain. Anyway, thanks. Go ahead, Jim.

JIM GALVIN: Yeah, I'm not sure if there was a question in there.

ROGER CARNEY: Not really, just more thought provoking.

JIM GALVIN: Okay. Yeah, I could pontificate for you too about all of it, but this is where the general idea of just more or less leave things alone, but adapt to the market in the sense of being able to apportion the fee and basing it on what's coming out of the registrar. But no fundamental change with the numbers that are there. We've had them for 20 years, they seem to work. We're okay with that. Okay.

On the BTAPPA side. That's an interesting question, which I just wanted to make sure to state that we want to leave that open for right now. We have not completed a survey and discussion among registries on this point, and we want to make sure that we touch base with people. You know, the notion, as you might expect, of adding a requirement is always an interesting question, and we need to make sure that we've heard all the voices that we need to before we would agree to something like that and see if we have any thoughts about it. So just wanted to put that marker down. Thanks.

ROGER CARNEY:

Great. Thanks, Jim. And I think that's really what we need from the working group is for the registries to go back and talk about it and look at the reasons why people are suggesting that it be a standard. To your point, adding requirements is always something that should be looked at. When we're talking about the amount of changes, and as you mentioned, the number of new and different registry and registry operators now, it provides a couple more hurdles that maybe a standard makes sense. And again, this is the discussions we've had. But I think that what you said, Jim, is important as I think the working group is looking for the registry stakeholder group to go back and have that discussion and talk about the pros and cons that the working group has talked about and come back to us with what their view on that is. So we look forward to that, Jim. And to your point on that, the discussions around what we're looking for isn't a 30 day notice that can go in either spot. So I'm not sure that any recommendations are being held up there. It's just where we put those recommendations and make sure that they get accounted for. So I don't want to leave it open for a long period of time, so I don't want to come back in a couple months and discuss it again. But I do want the registries to take that time and discuss that amongst themselves and see if they're comfortable on what side they're comfortable with. So thanks for that, Jim.

JIM GALVIN:

We should be able to bring an answer for you shortly, measured in a small number of weeks. Thanks.

ROGER CARNEY: That's perfect. If we don't hear by ICANN, you know I'll bother you at ICANN about it, so. Catherine, please go ahead.

CATHERINE MERDINGER: Thanks, this is Catherine Merdinger. I was wondering, and this has probably already been said, possibly in a meeting I missed, do we know what percentage of registry operators have not added BTAPPA as an RSEP? Are there going to be registry operators if we put this in that policy that have, that are not currently doing this? And if we don't know, I just, I think that would be useful, I would expect for the registries to know, though they might already know, I guess. I think someone probably already said this. Thanks.

JIM GALVIN: We actually don't know. That's an interesting question, but we actually don't have that number. And I don't even have an anecdotal idea of the number to be honest with you.

ROGER CARNEY: And thanks Catherine, because I don't think it's even been asked on one of our calls, so it is a good question to ask. And I think when you think about it, it's also important to think about how many of the domains are covered by a BTAPPA. Not necessarily how many of the operators. That's a good number as well, but I think the number of domains as well is a big factor.

CATHERINE MERDINGER: Yeah, I think that would be helpful to get from ICANN. I'm assuming ICANN is the best positioned to do that. That'd be great, Caitlin, because I'm just thinking if it ends up not adding basically anything to the policy to add BTAPPA as like mandatory under the policy, and maybe the registries are really against it, or for various reasons, then I think that's useful context to know, like, is this something we really need to do versus like, oh, we're going to lose out on millions and millions of domains, or hundreds of TLDs if we don't add it here, I think that would be really helpful. But obviously we need to hear from the registries before we can assume what they're thinking.

ROGER CARNEY: Great, thanks, Catherine, and thanks for that question. Jim, please go ahead.

JIM GALVIN: Yeah, I think there's an important distinction to make here, as I understand it, and that is that BTAPPA is currently not required, and it's entirely optional if a registry operator offers it or not. So I appreciate Caitlin volunteering to go back and see what's been done, and that'll certainly give us a sense of at least who has done it. I'm not aware, honestly, if the information as to who does offer it or who is willing to do it is available anywhere. Because it's not required, I'm honestly not aware if it's published anywhere. Maybe someone from ICANN has some sense about that, but I've never really encountered it before and only know from anecdotal discussions about who happens to do it and know that it's not required. So I don't even know if that data is available. And that's

why adding a new requirement, I mean, as we all understand, is always a big deal, even if it's not much of a requirement, so to speak. But you still, people have to have an opportunity to think about that and consider it carefully. So thanks.

ROGER CARNEY: Thanks, Jim. I think what ICANN can provide, obviously, is those registries that put in an RSEP to add the BTAPPA service, ICANN will know all of those registries that added that service through the RSEP. So, and outside of that, I never even thought about it, I thought only ...

JIM GALVIN: Yeah, I'm sorry to jump in, but you know, now that I see that, oh, okay, it's an RSEP thing if registries do it. So that's interesting. So sure, ICANN could go and collect those numbers and that would be interesting. Certainly a data point to have so we'd know how big the concern is likely to be about making it a required service, as opposed to people having to go through a process to offer it. So that would be useful to have. Thanks.

ROGER CARNEY: Great. Thank you. Okay. Any other comments, general comments or questions before we jump into each of these? Okay, great. Let's go ahead and jump into the first question. And I think this flowed really evenly to our discussions over the past few weeks and maybe even months now. The one thing that surprised me was option three, how heavily it was favored as a first and second choice. After our discussions last week, it sounded like people

were starting to move away from it and maybe moving toward option two or four, but it's still showing a good spread here. But again, I think if we can get some good language around, to me, this gives us the option of maybe taking a question to public comment on others thoughts on this fee structure here. Obviously, we've had a lot of discussion and when we take it to public comment, they'll be able to see all that discussion we've had. But I think it's interesting that it does lend itself to the option two, three and four that we have been discussing for the past three weeks, four weeks. Any comments by anyone on these? Anybody that voted one of these ways that had second thoughts or somebody that hasn't voted that thought about this? And thanks, Jim, for jumping in and giving your thoughts on it earlier.

Okay, and as Caitlin mentioned, obviously not a clear winner here. They group here well, but option three does have a lot of first and second choice support. So to me, again, nothing clear. And if we picked one of them, I'm sure we would get a good discussion from others on the downfalls and everything. So I think that I'm not sure this group is going to be able to get to that spot. But maybe we can get to some clarifying questions that we want to see if the public can help us on those. Yeah, thanks, Jothan. Yeah. And again, option three is probably a culmination of several weeks worth of work, I think, before option three kind of fed out to it a couple of weeks ago. We kept kind of adding to it and it kept growing a little bit here and there. And that's where it ended up as. And again, I think the biggest con of option three, I think, that we talked about was maybe the complexity out of it. And where does the management of option three kind of reside? The other options are probably contracted party held only and discussion on option

three is possibly ICANN being involved or some other mechanism of getting involved to do the apportionment. So again, I think that's the only thing we ran into with option three con-wise as it just seemed more complicated than definitely than option two. And option four was kind of middle road there. Okay. Any other comments on first poll question or first survey question? Let's go ahead and move on to the second question.

Okay, this dealing with option two, which is basically leaving the language, removing I think Caitlin said the third sentence, basically the fee out of it. But we're leaving the rest of the language in there. Charging a reasonable—and we got to this part. I think Theo put his preference in here and mentioned reasonable is good to him. It gets back to, I think, some of what Theo was kind of pushing for on what's the actual cost of doing it based on the actual cost that a registry has. And I think the reasonable part kind of leans back to that. And I think that the problem with reasonable is who decides that. And I think even Theo provided some examples. Maybe some smaller registries don't have the manpower to make a lot of this happen easily. So they have to maybe outsource some of it. So maybe their reasonable cost is a little bit higher than you would expect. So if you're moving 50,000 domains or 40,000 domains from one registry, the fee may be significantly lower just because they have that built in and can manage that easily enough. And another registry doesn't. So the reasonable does come in and there's variables that you can account for. But then when you get to a disagreement and say, well, that doesn't seem reasonable, how does that get solved? And I think that part of that is should there be a ceiling or not? So, Theo, please go ahead.

THEO GEURTS: Yeah, thanks. And this is Theo for the record. So when I was going through these questions, I thought a little bit about a price cap a little bit or a price ceiling a little bit more. And I sort of decided like, OK, if you put a magic number there and just throw out a number here and say that \$10,000 is reasonable, then then every registry operator can go like, OK, 10,000 is going to be the magic number here. And there is no way you can back out of it because the working group decided like 10,000 is reasonable. So even with a small, with a registry who has everything automated and actually who can do the work for like \$500 can still charge \$10,000 because we decided that was reasonable. So there's a little bit of a drawback there when you sort of decide like, OK, \$10,000, \$5,000, \$50,000, that is reasonable. You know, you can't walk back from that. Thanks.

ROGER CARNEY: Great. Thanks, Theo. Yeah. And a good point on that, that even if you're saying reasonable and setting a ceiling, does the ceiling just become the standard fee? So interesting point. Thanks. Volker, please go ahead.

VOLKER GREIMANN: Yes, I would like to add to that. I agree with Theo. And I think we still need to see some form of justification for that fee. I think that fee is historic. There's no real reason for it. There's certainly not an equivalent of effort on the other side of that. The registrar that gains those domain name basically gains nothing for that other

than saving the trouble of having to transfer all domain names at once. There is no renewal included in that, nothing that we can sell our customers for that. So essentially, I think the onus is on the side of the registries to demonstrate why this fee is even needed. Otherwise, if it's not justifiable or not justified, then it should go. Thank you.

ROGER CARNEY:

Great. Thanks, Volker. Yeah. And maybe I forgot to say this. All these fees that we're talking about here are in the full. Thanks for bringing that up, Volker. This is in the full portfolio move. So it's an ICANN approved move for obviously multiple reasons, whatever it is. But it's going to be a full portfolio move, not—these first 10 questions that were based on that. And that's the fee we're talking about, not on a partial move or anything. So we are talking about those circumstances where a registrar is getting out of business or losing its accreditation at the registry or with ICANN. Whatever the reasons. I'm sure there are others that fall into that. We're talking about that full portfolio move of a TLD or all TLDs. Jim, please go ahead.

JIM GALVIN:

Yeah, thanks, Roger. Jim Galvin for the record. I just want to make sure for clarity what question is on the table here when I hear discussions about eliminating the fee. Are we talking about eliminating the cap and substituting reasonable fee? Are we talking about eliminating it altogether? Could you clarify that for me before I go on?

ROGER CARNEY: Absolutely, Jim. And I think everybody's talking about removing the specific fee number and putting reasonable in there, not removing the fee itself.

JIM GALVIN: Okay. Interesting idea. I leave it to the registrars to sort out what they think there. Maybe I'll just offer out loud. Be careful what you wish for. There are a lot of registries out there. So yeah, so enough said. Thanks.

ROGER CARNEY: Thanks, Jim. And I think that that's exactly what the group ran into is, again, what is reasonable? And we've talked about some scenarios of [inaudible] different places. But again, I think that when you look at it—you don't want the registry to do—And again, I think Volker may have said it or Theo may have said it that maybe the registry already has a mechanism and it could cost them just a few hundred dollars to do. four domains or four million domains. Maybe it doesn't matter. Obviously, there's probably some verification that has to be done when it's so many. So maybe that number is slightly different. But then again, other registries may not have a mechanism to do it at all. And they have to do it.

And we know through our discussions that every transfer is slightly different. So it's not like it's the exact same every time. And we know that it's because what happens to the locks, what happens when there's UDRP, what happens when and all these

other scenarios, they're going to change every time that this happens. So, and that has to be worked through. What happens if you give registrants the option to move for 30 days and half of them move and it's like, okay, now the price changes and everything there, the volume changes. So, Volker, please go ahead.

VOLKER GREIMANN: Yes. And I appreciate that the registries were in there last week when we already discussed that. But one of the things that we basically ended up with was, what is the value add of one domain? If you have a transfer, ICANN-approved transfer of a portfolio of 49,999 domains, it's free. And if it's one more domain, it suddenly is a five digit number. Where's the value add in that one domain? What's justification for having, for suddenly charging a fee or be suddenly being able to charge a fee for something that's being provided for free once it's one domain less? Or let it be 10,000 domains more, where's the value add or the difference in work required on the side of the registry to suddenly be able to charge a fee for something that is offered for free when it's just a smaller number of domain names? That led to us, or some of us at least, questioning the rationale for having a fee in the first place. And I appreciate that registries should be able to recover their costs. And that might lead to different fees between registries, but that's what we have already. I mean, registries charge different fees for different services already. So, that's not something that we don't know already. I'm just asking for the registries to basically say, this is why we have to charge a fee once it's 50,000 domain names. And if you cannot come up with a valid reason for that,

let's scrap the fee or replace it by something reasonable. Thank you.

ROGER CARNEY:

Great. Thanks, Volker. And that's kind of how I started out. Maybe it didn't make sense when I said it. The conversation of it, it doesn't seem like there's a lot more work for 1,000 domains as 100,000. Now, obviously if it's 50, maybe it is a different amount of work because maybe it's not worth going through a process and it's easier to manage or whatever it is. But obviously, I think you're right. I think that's the discussion on the numbers is, does it make sense and is it in the right spot? That's kind of why we've always bracketed these numbers because we know that there's that discussion going on. So, Jim, please go ahead.

JIM GALVIN:

Thanks, Roger. Jim Galvin again for the record. I'm not going to try to defend 50,000 DUMs or the \$50,000 fee. That's existed for 20 years. It was well before my personal time and having any opportunity to engage in those particular choices. But in response to Volker's question about, and I don't mean this to be really for him because it sounds like everybody was asking this question, registries should justify their fee.

Let me offer the following perspective. I think we can all agree and understand that there is some cost involved. I mean, without a doubt, there is. And it's not really about whether the cost is dramatically different at 49,999 versus 50,000. That's not really what this is about. There is cost. And whatever number we want to

choose as a group, we're just collectively deciding that, okay, here's a bar. We know there's some expense rather than trying to dig in and justify each and every one and maybe agreeing to a fee per domain name for whatever reason. And I'm not convinced that that kind of structure works either, because I don't think that—the cost does not go up linearly with the number of domain names. I mean, I think that's fair. We all know that as technologists, once you've done something, it's much cheaper to repeat it than it is to then to charge the same thing over and over again. I mean, that's the value of scaling, right? You scale because your margins can become different and you make your money in a different way.

So given that there is some cost, we've just sort of decided that that's the bar. Less than that, everybody will simply absorb their own cost. And more than that, and it doesn't matter how much bigger it is, right now it's a fixed fee, right? I mean, that's what it is, regardless of how many move, it's that fee. So it's just a balancing act. Somebody chose those numbers. We're just agreeing to keep them. If you really want to get into a debate about what the right number is, we can have that kind of discussion. But I'm not sure we really want to go there. And if you want to go into some kind of structured and tiered thing, that's interesting too. But again, I'll just go back to the comment I made before about be careful what you wish for. I mean, honestly, I'm not trying to be difficult here. I mean, I'm just looking at this from a project management point of view. This is not about trying to defend that number or defending any of the parameters. It's a number that was chosen. It's a balance. It's going to be good in some cases, bad in others, but it doesn't matter. It's fixed. We all know what we're dealing with. And that's where we are. So thanks.

ROGER CARNEY: Great. Thanks, Jim. Yeah. And I'll just mention a couple of things on that. And I'll say, I think the group has agreed that we're at minimum changing will charge to may charge. So obviously it's not necessarily fixed. And I think what we've already come to as a group is changing that will to may. So technically, it's no longer fixed. But also, I think that the discussion we've had, and Carolyn kind of hit on it last week as well, is that in these whole portfolio moves, the thought is the registry is probably getting a better registrar partner at the end of this. And again, obviously, that can't be known for a fact or it may not even be true up front. I mean, maybe a great registrar is just deciding to get out of the business and needs to move it. But that being said, some of these are because accreditations are failing. So the expectation is the registry is getting a better business partner out of this as well. So, and I think that that in itself constitutes that change from will to may and the discussion. So, but Volker, please go ahead.

VOLKER GREIMANN: Yes, I think that change is already probably part of the solution. I also think that we might want to treat transfers of convenience where a registrar voluntarily deaccredits or voluntarily decides to shift their domain portfolio between various registrars that they might own, that might be treated differently than a situation where a registrar is mandated by ICANN or the transfer is mandated by ICANN. Ultimately, in those cases, we want to protect the registrants. To do that, we need to find a registrar that is willing to take those domains. In cases where the registrar has a bit of an iffy reputation, there might not be many registrars that are willing

to take on those domain names because obviously there might be expectations that their renewal ratios will not be very high. And if then suddenly they are saddled with an additional cost to help the community by accepting those domain names, then you might find that the number of volunteers that will take those portfolios will dwindle to zero very quickly. Therefore, ultimately, in the interest of the registrants, ICANN mandated transfers should probably be free. And I think we should also have that recognized in the policy. Otherwise, we might end up with situations—Actually, we will end up with situations where there is an unfair attribution of cost. We had a case where one such registrar that was also affiliated with a registry of similar repute had failed, ICANN mandated the transfer out. And the affiliated registry suddenly decided to use that opportunity to, well, stuff their coffers by charging the gaining registrar, us in that case, for the transfers that ICANN mandated that we unfortunately accepted for us. And that resulted in months of negotiations of us not being willing to pay those fees, then the registry not willing to issue the transfer and registrants being stuck. That's not a situation that ICANN should in any form or shape or the community in any form or shape should want. And we need to be able that for the future, such situations are excluded. So let's not add costs to voluntary services that registrars might be providing. And ultimately, the registries have already made their money on those domain names. They have already had the registration fees and the renewal fees eventually as well for those domain names. So they may already made a profit off of those domains, whereas the gaining registrar has made zero off of those domain names and only has the potential

of future renewals, which in many cases will not materialize anyway. Thank you.

ROGER CARNEY: Thanks Volker. Theo, please go ahead.

THEO GEURTS: Yeah, thanks. And this is Theo for the record. So the scenario that Volker points out that you might end up in a situation that nobody wants to take the risk and cooperate with such transfers. That has been worrying me lately. I think it's a valid point from Volker. I mean, there's lots of costs involved, lots of risk. It looks nice on paper to obtain domain names on your accreditation in an easy way, but it's not very easy. It can be very cumbersome. And thinking ahead a little bit, there's also registrars out there which portfolios, they're riddled with abuse. And if we change the contract, if we vote yes in the upcoming months, I wouldn't accept a portfolio that's riddled with abuse. I mean, I'm going to have ICANN compliance all over me. So the pool is even going to shrink a little bit more if we are not very careful here. So it's a valid concern from Volker. Thanks.

ROGER CARNEY: All right. Thanks, Theo. Okay. Again, option two was somewhat favored out of the five options. I would say it's maybe second or third place for where it stands, but it still seems like it has some meat to it. And I think this is just trying to drive into, if we were to take this to public comment as one of the options, and maybe we don't, I think that these questions are just kind of teasing out how

exactly we can get that language. And I think that Theo and Jim didn't say it, but he mentions it. But Theo mentions you need to be careful trying to set a high mark here as it may become just the standard fee, the reasonable, in air quotes, fee, if that's the case. You know, if we say reasonable fee, but can't exceed \$10,000, then there's a possibility that registries will just charge \$10,000, even if it costs them a few hundred dollars or a few thousand dollars to do it. So just something to think about. Obviously, the group, when we went through the survey here, felt like a price ceiling made sense to add to the reasonable language here. So just think about that. And so we can move that forward. Okay, I think we can move on to the next one. Okay, great. Thank you.

And what's driving a yes, we should have a price ceiling—And a lot of this is, looks like seven people say just to try to control the high fee basically, and to me, it goes along with it with the first one, the transaction fee. But just concerned that there's a high fee there. And obviously, a concern of transparency, so that everyone going into it knows what the fees are going to be. So, and some of the other ones we have talked about before and in cases of emergencies, when someone's going out of business, and they have registrants that everyone needs to—wants to take care of, does it make sense to have fees or not? And again, our language has changed from will to may. So it allows that but still obviously, they can charge. So coming off of that idea maybe, Jim, in your discussions on the BTAPPA part, bring this part back as well, is if a registrar is involuntarily losing accreditation, or either way registry accreditation, or ICANN accreditation, is that something registries would waive any fees on to get those domains moved to

another registrar? Just an idea, again, coming from this. So, Jim, please go ahead.

JIM GALVIN:

Yeah, I mean, I'll just acknowledge that anecdotally, at least the registries that I've talked to, there's not a lot of—this discussion of fee and ceiling and stuff has gotten a lot more discussion than it's gotten play in actual execution, unless registrars have got some experience with a registry somewhere that you know, those of us who've been trying to track all this have been involved with, it all just seems like a lot. And again, anecdotally, waiving the fees for involuntary transfers seems pretty common. But with the policy as it is. So, yeah, that's just data for you. Thanks.

ROGER CARNEY:

Great. Thanks, Jim. Yeah. And again, I think in your discussions, just take it back and see if you can get a good feel for them. Because maybe that solves a lot, as you said, maybe not that big a deal. And then when it's involuntary, the registry understands that. And again, I think we've talked about it prior as well. The registry wants those registrants to have a better experience. So they continue to keep that name with them going forward. So just something to take to them. So. Okay, I think we can move on to the next one.

If no, again, why no, no price ceiling. I think, again, Theo even mentioned a good one today. So, obviously, pricing in a policy becomes hard fee wise. So, yeah, and I think Theo must have did

the last one here. I think we can go on to number three if no one has anything.

And I think the last question on this, option two, is, what would be an appropriate fee if there is one? Maybe the registries will let us know. If an involuntary one, maybe just waive the fee, we put that in the language and we're done with it. But the question here was, what would that be in that case? Kind of scattered. The current language is favored, and I don't know if that's because current language usually is easy to go with, or if that's the feeling everyone had is, yeah, that's the right number. But I think the key here is it's kind of spread apart. And I think that the big issue here is where did the 50,000 domains, \$50,000 originate from, where that came from, and how it is maybe isn't as important as us saying, OK, with option two reasonable is an improvement over that. And obviously, the will to may seems like everyone agrees is a major improvement. So I would say number three didn't end up taking us in a specific direction here. But I think that we can move on from there, I think, because I'm not sure that three provides us a whole lot, so except for, obviously, the current language. Let's go ahead and jump into the next one, number four.

And this is based on option four with the algorithm-based possible fee. Thank you for highlighting. And again, we still continue with the operators being able to may charge a fee. But again, then basing things off of, is there some number of domains that can be done for no charge, or is there—And again, I think that even parts of these could be, maybe it's not even 50,000 minimum that it starts at. It just starts out as one and moves forward from there, obviously an option. But I think the key here is that it's not

necessarily dependent on dollars and domains. It's more of the amount of work being done. So it gets back to maybe the cost factor here. Obviously, it doesn't match exactly, but it does provide a non-dollar fee structure. But it also provides some transparency so everyone knows going in what they should be looking at. And again, to me, number four dealt with the apportionment problem as well that Jim mentioned, that three handles very well. And it doesn't say it, but it's one of those factors that we would have to consider is if this is going to multiples or if it's only on a single TLD. So if there's a transfer involving 10 TLDs, do each one get to apply this wholly or not? So it's something that would probably need to be clarified. But this was based on the percent number, so percent of wholesale. And I think Jothan had, and maybe Rich and others, had some discussion going in chat earlier about this, factoring in premium names. And I think that I hadn't really considered that a whole lot. But my thought was it was the standard domain, even if the standard wholesale price, even if it was a premium. So I didn't think about that, and maybe others will have some ideas on it. But if 10,000 of them are standard names and 200 of them are premium names that are being transferred, my expectation was that they would all be at the standard wholesale. So this would be based on that. Again, because we're not talking about pricing here, we're just talking about a domain. So Theo, please go ahead.

THEO GEURTS:

Yeah, my thinking exactly. I mean, let's focus on the wholesale price. And if there are some premium domain names included in that portfolio, I mean, it's still a domain name. The only difference

is that a registry decided to charge extra for it for several reasons. But it's still a point in the database, and nothing more than that. Same as with the wholesale domain names. There's no difference there from a technical point of view. Thanks.

ROGER CARNEY:

All right, thanks, Theo. And I think that's how I had perceived it and why I didn't think about it, probably, is the value, obviously, can be different depending on who is looking at it. But the fact is that the work and everything is probably the same. And maybe registries can say, no, premium would take more work to move or not. But it wouldn't seem like it would matter if it was a premium or not. And that's why I was thinking the wholesale would be off of the standard pricing. But anyway, what we were looking for was where that number fell. In the document, it was 0.5%. And again, that was just a number, obviously. And it was just obviously been bracketed the whole time. So we were looking for that number and if it makes sense to take somewhere else. Similar to our last question, this is kind of spread out, maybe even more spread out, in that there wasn't a whole lot of agreement here. And I think Theo, in the working document, went through using the numbers that are in the highlighted text here. And he thought they seemed reasonable. And I think that when you start talking about the percents, when you get into 1% and 5%, that's probably not a lot when you're talking about a handful of domains. But when you're talking about even a few hundred, that number is pretty large for what's occurring. And to me, it would seem a little bit offbeat. The 0.5%, I walked through it as well as Theo did. And obviously, that does add up pretty quick when you get up into high numbers. The

0.05%, and I think maybe Jim kind of hit on this earlier. At scale, the 0.05% probably makes sense. But it's a tough one. That's pretty low for a smaller subset. So just my thoughts. Theo, please go ahead.

THEO GEURTS:

Yeah, thanks. And this is Theo for the record. My only issue with option four is, yes, one, I think it's complex. And I don't like complex policies because everybody is going to sort of break their brains on it when it's implementation time. So that's one reason I don't like it. And you are correct that if you come up with higher numbers, the price goes up also, which could be—let me rephrase that. There is no predictability in it for the future. I mean, I'm now sort of calculating on stuff that we are doing today. But in five years from now, that can be totally different. And those numbers could be totally different. And then this option number four can become a sort of a burden that we never anticipated. That's what I don't like about number four, the complexity and how that's going to play out in the future. There's no predictability there. Thanks.

ROGER CARNEY:

Great, thanks, Theo. And that's a great point that we know these wholesale prices will be increasing. Now, also the cost to do anything will also increase. But is that proportional? Probably not. But it's a good point that it's less. I mean, an equation is pretty easy to follow. But the variables changing behind the scenes of that make this less, as you said, transparent in a way. So Jim, please go ahead.

JIM GALVIN:

So Jim Gallim, for the record. On this issue of transparency in wholesale prices, I think there's something important to keep in mind here. With very few exceptions, wholesale prices are not public information. Now, I appreciate, of course, that registrars tend to know what they are, because you can't conduct business if you don't know what they are. But they are not public information. And so the notion that this kind of calculation could be managed and done by any kind of independent third party becomes a challenge. Let's just call it that. So I'm concerned about this. And registries being willing to adopt this would suggest that those wholesale prices are going to have greater visibility. And that's likely to cross a line for a lot of registries. So just want to put that out there as we think about this policy change. This policy change in this direction with that highlighted text, that's likely to be a very big deal, more so than some of the other things. Thanks.

ROGER CARNEY:

Great. Thanks, Jim. Again, the responses to this, and again, it's just trying to clarify where we're at. So we're pretty scattered. I mean, obviously, 45% of respondents picked the decimal place percentage. But still in that, there's a big difference. So and it's interesting, as we've talked through these, that when I looked at the questions, the responses to the questions, four seem to be fairly well supported in the responses, at least. But as we've been talking through it, it seems like it's less supported on the call anyway. So just what I'm hearing. I think we can move on from four and go on to five.

Okay, this is doing the cap, which was, and again, still on number four, option four with the algorithm. So this is talking about the cap of 200,000 domain names. Above that, no more fee would be associated. And again, 60% obviously is a good number. I would say not overwhelming. But again, thinking that if we use four, that there should be a top number. Any comments or questions? I don't think this one takes a whole lot, but okay, let's go on.

So still talking about option four with the algorithm equation to calculate this, this was dealing with should there be a four or not? Should there be a number of domains transferred to trigger a fee? And again, this was even more split than the last one, pretty close to 50-50 here on if there's a bottom to trigger this or not. And again, kind of dealing with that same issue we have today, if the line drawn in the sand of 50,000 domains, \$50,000, should there be something here? Again, I don't know that we have anyone too heavily involved here that says, yes, there should be or not. So any comments from anybody? Any thoughts as they went through this and thought about these? Okay, let's go ahead and go on to seven then.

And if there is a domain floor, what that number is. And again, pretty spread out, though, the 50,000, the current floor, similar to our prior one, I don't know if it's just current language or that is a good number. But that, again, is pretty spread out. Okay. And likewise, on number eight, what is that number, that upper number, if there is a cap on the algorithm? And again, more spread out here, though a lot of the 37% came out as no cap. And I think that we've talked through reasons why there should be and it shouldn't be. So again, very spread out here. I'm not sure this

directs us anywhere. Any comments from anyone on that? Okay. I think we can move on to nine.

And this came up, as Caitlin mentioned, our last call. Volker raised this once again on who should be paying the fee here. And again, we're focused on the bulk transfer, ICANN-approved transfers here. And who should pay the fee? It was definitely toward the current language, which is the gaining registrar. And Volker mentioned that maybe the losing registrar should have this on them. And obviously, there's circumstances where the losing registrar is not going to pay it. And some discussions that we've had already today is even the gaining registrar is there, especially in the involuntary ones, should that fee even be waived? But I think, obviously, almost 90% thought that the gaining registrar should be the one paying the fee if there is a fee involved in this. Any comments, questions on this? Again, the same as the current language. So it fits on the current.

So let's go ahead and jump into our last question. Oh, it's just other concerns and comments. And I'll open the floor up. I'm not going to read these again. Caitlin went through them. But I opened the floor up to anyone that has any thoughts on the fees. I'm just going to say, again, the survey responses tended to look like option 3 and 4 with option 2 as maybe the third place one to me. As Caitlin mentioned, it's hard to actually pick out. But as our discussions went on today, it sounded like people are more comfortable with option 3 and 2. And if we take any options to public comment, the fewer the better to me. So if we're equally on all three, that's fine. Let's do that. And let's focus the questions on the pieces that we're not able to answer. What are those

minimums? What are the maximums? And things like that. But if we can get it down to two options to take to public comment, that's great. If we get it down to one option and we don't have to take it to public comment as a question, that would be great. But it doesn't seem like we're going to get to that spot. So I think if we can get down to two options, taking it to public comment would be great. Any general comments on those?

Okay. Well, I think we can go ahead and move on to our partial move discussion here. And again, the main question here is, is the main question open? And I thank Jim for letting us know that the stakeholder group will talk about this and kind of come back with the stakeholder group, the registry point of view on this. But the open question here is, the changes that were talked about, again, 30-day notice and things like that, haven't been an issue. It's where those reside. If we're updating the BTAPPA and it's still a voluntary optional service registries provide, or does it become, and again, now we're talking about partial moves, or does it become policy? And a lot of the discussion has been around, obviously, the environment's changed. How long ago BTAPPA was created, I don't know. But 10, 12 years ago, there was only a handful of registry operators, and now there's considerably more. So any moves now are going to most likely impact multiples. So it becomes more difficult to do a move just because of the environment changing.

And along with that, some of the ways around BTAPPA and in today's world, allowing things to move on renewal or whatever, things like that, are going to be a little less possible or likely or more difficult. And maybe I'll let Jothan talk to some of those. But

with our new security mechanisms that we put in on the individual transfers, those individual transfers become a little more difficult, more secure for sure. But when you're trying to do a BTAPPA light, that you're not trying to get into BTAPPA because registry doesn't support it, and you're just trying to do it manually through transfer moves, then that becomes harder and harder to do with the new procedures we got in. So I think that that's where the questions come in is, does it still stay? And Catherine's question was great, is how many does this even affect? Are 80% of domains out there actually already covered by a BTAPPA, or is it 30% that's covered? And that issue is going to become more and more likely. But Theo, please go ahead.

THEO GEURTS:

Yeah, thanks. And this is Theo for the record. And yes, knowing the number of how many BTAPPAs there are out there supported by the registry is definitely a really great indicator. I'm not sure if it's a defining indicator though. I mean, you also need to factor in, did you ever have experience with a BTAPPA and how was that experience? I'm not going to answer that right now. But also when thinking about this a little bit more, we sort of acknowledge as a working group like, okay, yes, we made the transfers more secure, but we also recognize that it's going to be harder for a specific business model, in this case wholesale registrars. So if we sort of not come up with a solution there, and then we as a working group are going to, provided we don't come up with a solution here, and we're going to end up with sort of what we have now, which is not a great situation, then we as a working group are taking a few steps back in terms of competition among wholesale registrars.

And I don't think that is a really great optic from a working group, to sort of eliminate competition among wholesale registrars. I mean, ICANN fosters competition and a working group making a decision like, okay, we are not going to care about that. You know, that's not great optics. So we need to be a little bit careful there. Thanks.

ROGER CARNEY: Great. Thanks for that, Theo. Jothan, please go ahead.

JOTHAN FRAKES: Yeah, thank you. So I'm looking at the time, so I'll be really brief. With BTAPPA, looking at this is really important to us. I think we don't have a picture of where this is universally applicable because it's typically been RSEP. So we'd be doing something as an output of this group that would hopefully provide for some universal solution for a BTAPPA offering. And the reason this is crucial is that other work we're doing in this working group is going to create changes that are going to dry up the opportunity or potentially close off the opportunity that's used right now for automation of transfer that is similar to BTAPPA, but can be handled via the SRS or EPP through automation. And by making the change on the one hand where the authinfo tech stuff is going to change, there's going to potentially be stronger burden on the need for BTAPPA. Thank you.

ROGER CARNEY: Great. Thanks, Jothan. And I appreciate that time check from you. Okay. And we are at time. So any last comments from anyone?

And again, I think staff will take back and take a look at where those BTAPPAs exist and let us know on volume and everything on that. And Jim will take back to the registry stakeholder group, that discussion and come back to us within the next few weeks on the stakeholder group's opinion there. So I think that we're in a good spot. Again, that's the big thing to me on the BTAPPA is just where that resides as an optional service or in policy. The changes that we've talked about seem like everyone's agreed to on the surface. So I think that that's good. And again, I think on the fee structure, think about it. To me on today's call, it sounded like we were leaning toward options two and three. But if people have definite feelings on option four, let us know and we still need to iron out, okay, on two, is there a ceiling? If not, and things like that. But thanks everyone. Great discussion today. And we'll talk to everyone next week. Thanks.

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