
ICANN Transcription

Transfer Policy Review PDP WG

Tuesday, 27 June 2023 at 16:00 UTC

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JULIE BISLAND:

Okay, good morning, good afternoon, and good evening, everyone. Welcome to the Transfer Policy Review PDP Working Group Call, taking place on Tuesday, the 27th of June, 2023. For today's call, we have apologies from Raoul Plommer, NCSG. He has formally assigned Juan Manuel Rojas, NCSG, as his alternate 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.

Okay, seeing none, 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. And as a reminder, those

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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:

Thanks, Julie. Welcome, everyone. Hopefully, everyone got back nice and easy and safely from ICANN 77. Welcome back after a week off and just a reminder that we have a week off next week because of the U.S. holiday, Independence Day, on our meeting day. As far as ICANN 77, thanks, everyone, for their contributions. It was a good meeting that we had, made good progress to wrap up the loose ends we had on the TEAC and TDRP. And I guess a special call out for Luc to recognizing a possible issue that could come up with email and phone for the TEAC. So hopefully, we've added some wording in that to address that and make that better going forward. So I think other than that, I don't have anything else to do besides just to let everyone know, again, we're wrapping up the TEAC and TDRP, and we'll be moving on to our Group 2 items, including the bulk discussions. But right now, I think maybe I'll turn this over to Caitlin just to cover the outcomes of ICANN 77 and those few items that we had. Caitlin?

CAITLIN TUBERGEN:

Thank you, Roger. And I do note that Sarah had just put in the chat that, asking a question if we did add wording or we will. And the answer is that staff proposed some updated wording on one of the recommendations to address Luc's concern. And staff also proposed some draft text to capture the discussions that we had at ICANN 77. So I'll just quickly go over those now.

They were added to the Google Docs that the group already has access to. But of course, if there are any concerns with the language or you don't think the agreements were captured correctly, your edits are always welcome. And we will circulate these with the notes. You will have two weeks to review these and provide any proposed edits.

So without further ado, the first document is the update to a TEAC-related preliminary recommendation. And this is in direct response to Luc's concern. So to those of you who may not have been at ICANN 77 or need a quick refresher after the two-week break, the working group presented the draft recommendations that we have so far during this ICANN 77 session. And one of the recommendations was about how the transfer emergency action contact could be provided by the registrar as an email or a phone number. But there was a concern that in the event that the TEAC is presented as a phone number, there was a lack of evidence or paper trail to substantiate if there was no response to that communication. So the working group talked about this and noted that in the event that the registrar chooses to use a phone number as their primary TEAC contact method, that an outreach to that phone number would need to be followed by an email so that there would be a paper trail.

The working group did briefly discuss if it should be a requirement to only use email, but decided that wasn't the best path forward because some registrars would like flexibility. But in the interest of having a paper trail, what was suggested was if the registrar does use a phone number, again, it needed to be followed up by an email.

The problem that Luc brought up was that his registrar, I believe, does use a phone number and there's a dedicated person that would answer any sort of transfer emergency calls, but that if someone were to send an email before contacting that phone number, the whole notion of when the clock starts for that 24-hour response could be a problem.

So what we did here was we added the highlighted text, which is what was coming out of ICANN 77, and noting that the working group recommends that initial communication to the TEAC must either be in the form of email, or if the primary TEAC communication channel is designated as a phone number or other method, the verbal non-email communication must be accompanied by an email communication to the TEAC. This email starts the clock for the 24-hour response timeframe specified in another preliminary recommendation.

And we have a footnote here that says, for the avoidance of doubt, if a registrar designates a phone number as the primary contact method for the TEAC, the required email accompanying the phone call must be sent either simultaneously or shortly following the phone call. And that was in hopes to mitigate the concern that if someone were to send an email and then follow it up with a phone call several hours later, that that email would not start the clock. The email would only start the clock if it's sent simultaneously or following that phone call, so that it's fair to registrars who use that as their method.

So I think you have the link in the chat and obviously we'll distribute that with the notes, but if there's any tweaking of the text that you'd like to make, or you think that doesn't adequately

capture Luc's concern, please feel free to edit the text and we can discuss that at the next meeting.

So now we will go to the next outcome of ICANN 77, which is where we discussed the TDRP. We had already discussed and presented the recommendations on the TDRP for questions G1 and G2. A lot of the discussion during ICANN 77 was about the question G3, which is about the current sufficiency of the TDRP and what may be needed to address any concerns the working group noted.

So you might remember from ICANN 77 that we discussed at length the option and concerns around adding registrars to the TDRP. And so what we did was we had the working group talk about some of the shortcomings they see versus some of the concerns with potentially adding registrants to the TDRP. And so what we have drafted here is a response to the charter question that hopefully captures the discussion. But essentially for those of you who weren't there, these discussions had happened in other TDRP meetings as well.

But the group noted that really if a registrant has an issue with an improper transfer or believes an improper or unauthorized transfer occurred, it has a few options. Can reach out to the registrar directly in hopes that the registrar will informally resolve the issue. Or if the issue cannot be informally resolved with the other registrar, it can encourage the registrar to file a transfer dispute resolution complaint through the TDRP. But as noted in previous discussions, the TDRP is pretty infrequently used. I think there were three complaints or four in the last few years. So it's not really something that is common. But if the registrar isn't willing to

file a TDRP or is unresponsive or is unable to informally resolve the issue, the registrar essentially can either go to ICANN Compliance to notify ICANN Compliance that there may have been a violation of the transfer policy. But one of the issues there is that ICANN Compliance will go to the registrar but does not have the authority or standing to require a name to be transferred back to the registrant.

So if the registrant is seeking redress through a transfer, it would need to go to court, which the working group had noted is pretty cost prohibitive. And so it noted that, yes, there are some concerns that were noted in a previous working group with opening up the TDRP to registrants, and they are listed here. Namely, it could overload the TDRP, lead to abusive filings.

The current payment schedule of the TDRP provides that the loser pays the fee. So if a registrar files a TDRP and pays for the complaint, if the other registrar fails to show that a transfer violation didn't occur, they would be required to pay the fee. If you have a registrant filing against the current registrant, and there's some sort of default mechanism, it could be hard to pay the fee in the current loser pays model.

And lastly, there was an issue about the documentary evidence required to file a TDRP. And the IRTP working group D had noted that, generally speaking, registrars are in possession of the evidence needed to file the TDRP, not the registrant. So it's more proper for the registrar to file the complaint, not the registrant.

However, the working group in its discussion at ICANN 77 noted that, yes, they're aware of these issues, but I believe the wording

used by a couple of participants is, these are not overcomable issues. For example, there could be a different payment schedule, the TDRP or alternative dispute resolution mechanism could be narrowly tailored to deal with issues that this working group has identified or the shortcomings of the TDRP. And noted why it believes that there are these shortcomings.

So what we have here is a draft preliminary recommendation that attempts to capture what the group has preliminarily agreed to, which is that the working group recommends the GNSO to request an issues report or other suitable mechanism to further research and explore the pros and cons of one, expanding the TDRP to registrant filers, and two, creating a new standalone dispute resolution mechanism for registrants who wish to challenge improper transfers, including compromised and stolen domain names.

In making this recommendation, the working group recognizes that if such an effort were ultimately adopted by the GNSO council, this request could be resource intensive and will require the council to consider the appropriate timing and priority against other policy efforts.

So I encourage everybody to read through the above text, as well as the draft preliminary recommendation over the next two weeks and provide any questions, concerns, text edits, so that we ensure that the group's discussions are appropriately captured. And I see that Sarah's already making a textual edit, which I will go ahead and make right now with the hyphenated resource intensive. Thank you, Sarah.

And then lastly, oh, I see Steinar has his hand raised. So, Steinar, please go ahead.

STEINAR GRØTTERØD: Yeah, hello, this is Steinar for the record. I'm just curious, the wording as scrolled down here that you propose and is proposed, will that result in a new PDP with the same time estimate to be completed as we are working with this PDP?

CAITLIN TUBERGEN: Thanks for the question, Steinar. So the short answer to the first question is it could or it might. So ultimately, what would happen here is if a working group notes an issue that's not really within its scope to address, it can request further work from the GNSO and it can recommend further work. The GNSO ultimately has the final say, it would vote on this if it would like to request an issues report. And if it does indeed request an issues report, that would be a separate policy initiative.

So, for example, this draft recommendation would go into this working group's initial report and eventually its final report. And then the GNSO would have the opportunity to discuss this. And as noted in this recommendation, and kind of as we've discussed and Berry kindly reminds us from time to time, is the GNSO has a lot of work on its plate. So in terms of prioritization and when that work would occur, if ever, would be ultimately for the GNSO to determine. So the working group's just recognizing that they've noted that there is this potential shortcoming with the TDRP and recommends further work in this area. But the further work would

be part of a separate initiative, not a parallel initiative here and not like follow on work that would take the same amount of time. But I see Berry is raising his hand, so maybe he has a more clear answer of how to respond to that question. Thanks, Berry.

BERFRY COBB:

Thank you, Caitlin. No, your answer was perfectly clear. I just wanted to build on that. So in terms of under the assumption that the Council does make a decision to launch a new policy effort on this topic, during the scoping of the charter phase is when we would be responsible for mapping out a potential duration of when to complete the policy work like what we've done for this particular working group on the transfers. And without substance of what the charter would look like, there's no way to predict how long a policy effort would be on that. But kind of thumb in the wind kind of perspective, again, assuming that a policy initiative was launched, it's probably easily at minimum 18 months of policy work before getting to at least a final report. And that's a very conservative estimate. And again, it's just a function of how complex the charter is, the pace of the working group that's willing to work the issue. And another function of that is how close or far apart are the groups of getting to agreement on some of those recommendations that may come out of said working group. Thanks.

CAITLIN TUBERGEN:

Thank you, Berry. I hope that answers your question, Steinar. And lastly, coming out of ICANN 77. So you may remember that Sarah had presented these charter questions to the group about the

processing of registration data. Is it compliant with data protection law as well as in terms of the TDRP? Is the processing of registration data appropriate based on privacy by design and data processing minimization?

So the answer to these questions is the same, which is it goes over what the working group reviewed. And that includes the data points that are provided by the complainant to the provider, the respondent to the provider and the provider to the panelists. And the working group noted that some of the evidentiary requirements need to be updated based on the updated language. That's changing as a result of EPDP Phase 1 Recommendation 27.

I noticed that Sarah did provide additional edits to the draft TDRP with those REC 27 updates. So, for example, a change resulting from REC 27 would be that the gaining FOA is no longer required. So any reference to the gaining FOA is not required to show that a transfer policy violation has occurred.

Similarly, there are some outdated references that are changing as a result of the new registration data policy from EPDP Phase 1. So references to WHOIS will change. And that recommendation was actually already included in the group's Phase 1a report. But you might remember that in the REC 27 document that we went through, it shows all of those changes as well as the direct draft changes to the TDRP.

So what we have here is that annex, that is essentially the document that we've gone over that will show those changes, as well as the cross-references to the responses to REC 27. So we'll include those again in the text that goes out to the group to

review. And you're welcome to make further updates to the TDRP in terms of any concerns that you have with data protection. But I think we did a pretty comprehensive review of those. And if you do have any final edits to that, we would appreciate those in advance of the next meeting in two weeks so that we can go ahead and close out on those.

So that concludes the summary of the outcomes of ICANN 77. Before we go into the next topic that the group will be looking at, are there any questions on any of those? Sarah, please go ahead.

SARAH WYLD:

Thank you. This is Sarah. So it's kind of a question and it's kind of a statement, which I know everybody hates that. I'm so sorry. So we've got the previous one on the TEAC. I'm sorry, maybe it was this one. We're suggesting that there should be some thought given towards a dispute process that can be initiated by the domain owner. Did we end up with any kind of a dispute or transfer reversal process that a registrar can rely on?

I think the answer is no. I think we don't have a transfer undo that the registrar can do if the process was followed, but there was still some kind of problem with the transfer. And so am I just missing something? Or is it that we've decided not to do that entirely? And I need to just be able to remember that we've decided not to do that. I'm so sorry. Thank you.

ROGER CARNEY:

Thanks, Sarah. Yeah, and actually you're remembering correctly. We didn't come to anything on an undo. And again, I think that

leads into maybe this recommendation here is if there's a way to do that. But yes, we did discuss that and we never got to a solution or a probable recommendation on that. So there is no undo at this time.

CAITLIN TUBERGEN: Thanks, Roger. And thanks for the question, Sarah. To that end, we have almost concluded the topics in what we're calling group two, which includes the TIAC, the Transfer Emergency Action Contact, the TDRP or the Transfer Dispute Resolution Policy. And we're about to move into the ICANN approved transfers or bulk transfers. And there are two charter questions associated with that topic.

And I know that some of you are having to go back into your memory bank of where we concluded on some of these topics. So before we move into, or I should say, before we go back to the group 1B topics, we will have a summary of where we've landed on all of these so that everybody is on the same page. Because I know there were some small groups and parallel discussions going on with some of these topics. So it's okay that people have forgotten where we've landed on it.

But when Julie distributes the notes today at the end of the call, the two documents that are linked are where the group has tentatively landed on TEAC and TDRP. It includes the charter questions, the response text to the charter questions, which was proposed for inclusion in the initial report, as well as any preliminary recommendations the group agreed to. So I hope that is helpful.

ROGER CARNEY: Great. Thanks, Caitlin. Before we jump into the bulk discussion, Caitlin, do you want us to take a look at the work plan just to show us where we're at and what we're looking forward to?

CAITLIN TUBERGEN: Yes. Thank you, Roger. So here's the trusty work plan complements of Berry. And what you see highlighted here is that we're currently on meeting number 95, where we were doing those draft responses to charter questions G3 and G5, and introducing the topic of ICANN approved transfers. We have this topic dedicated for the next three meetings, and we'll see, of course, if it needs further discussion. And we'll be submitting our monthly project package to the council shortly. So hopefully that is helpful that we've kind of closed out those two previous topics tentatively. And we'll now be moving on to the last topic of group two. I don't know if Berry has anything else to add in terms of our project plan before we move on.

BERRY COBB: All good for now. In preparation for the council meeting in July, we'll be releasing a fresh project package so you can see where we're at and where we're going.

ROGER CARNEY: Great. Thanks, Berry and Caitlin. And Berry reminded me last week that if you notice on our project plan here, our work plan here, we're approaching our 100th meeting coming up. So a big

milestone for this group. I'm determined that we won't hit 200. And I think Berry will probably hurt me if we do. So let's get this done before we hit 200. But 100 is coming up shortly. So, okay. Caitlin, do you want to take us through the introduction on the bulk transfer? Is that what we have next?

CAITLIN TUBERGEN: Yes, it is. Thanks, Roger. So let me go to some slides that staff has prepared to introduce this topic. So similar to how we kind of introduce new topics from the charter, what we'll do first is go through what the existing policy says about that topic. And then we will talk about the charter questions. In this particular case, the charter questions about ICANN approved transfers or bulk transfers was derived specifically from feedback or public comments that we received on the issues report about the transfer policy review. So we'll talk a little bit about the context there so that everybody has an understanding of where those questions came from as we work together to answer them. And then we'll also quickly touch on some of the early input we received on the two charter questions. So there was feedback received from the Registrar Stakeholder Group, Registry Stakeholder Group, and Business Constituency about these questions.

So first, the topic of ICANN approved transfers is housed in section 1B2 of the transfer policy. So section 1A of the transfer policy goes over the requirements that registrars are required to comply with when a registrant initiates a transfer to another registrar. There are some circumstances where the registrant does not initiate the transfer but the names may need to be transferred for other reasons outside of the registrant's control.

And that is when ICANN approved transfers come in. So there are limited circumstances under which ICANN would approve a transfer of names from one registrar to another. That's typically the result of either an acquisition of a registrar, so a registrar purchases another registrar, that purchase takes place, the names from the purchased registrar would be transferred to the purchaser. Or if the registrar is no longer accredited by ICANN, that may be because it chooses not to renew its registrar accreditation agreement, it may be because it voluntarily terminates its registrar accreditation agreement, or it may be because it is terminated by ICANN due to a compliance breach. Lastly, it may be that a registrar will continue to be accredited, but it is no longer accredited within a certain registry, or the RRA is either terminated voluntarily or involuntarily. And in those situations, if a registrar is no longer accredited with a certain registry, the names for that registry would need to be transferred to another registrar.

So the procedure that is where the two stars are, and this is, again, a direct grab of the text from the transfer policy. So in the event that ICANN were to approve a transfer such as this, the gaining registrar must be accredited by ICANN for the registry TLD and must have in effect a registry registrar agreement with that registry operator. And that seems to be pretty common sense. ICANN's not gonna approve a transfer to a registrar that does not have RRAs in place with the relevant or affected TLDs.

And secondly, ICANN must certify in writing to the registry operator that the transfer would promote the community interest. And examples of that could be if there's an actual or imminent

business failure of the losing registrar there, ICANN would be approving a transfer to a registrar that could take on those names.

And then in IB2, you'll see that it says that upon satisfaction of these two conditions, the registry operator will make that necessary one-time change to the database. And then there's some text about a fee and a volume consideration. So for transfers involving 50,000 domain names or fewer, if there are 50,000 domain names or more, the registry operator will charge the gaining registrar a one-time flat fee of 50,000 US dollars. We'll discuss that a little bit later because that directly implicates one of the charter questions the group will be discussing.

So this is just a summary slide of basically what the text says, hopefully in a more plain language format. But essentially, if a registrar is acquired, voluntarily terminates its RAA or RRA, or is terminated by ICANN, then the registrar's domain names, if it has any, would need to be transferred to another ICANN accredited registrar. And that's obviously to protect those registrants.

In both of these cases, ICANN would follow what's called the deaccredited registrar transition procedure. And that is a procedure that it uses to identify an ICANN accredited registrar that can take over the management of the domain names from the terminating registrar. So this is a quick overview of the deaccredited registrar transition procedure.

First, this was a procedure developed by ICANN. It was developed in conjunction with the community with a lot of feedback from registrars on this. And it was developed for the purpose of managing the transition of names from a deaccredited registrar to

an accredited registrar. It was approved by the ICANN board back in 2012. And it's been in operation ever since.

This procedure came about after the introduction of the registrar data escrow program, which is a program that ICANN introduced where registrars will escrow their registration data with a third-party data escrow provider. And that is so that in the event there is a registrar business failure, that the registration data is housed safely so that in the event those names need to be moved to another registrar or recovered because of a failure of the current registrar, that data would be available to restore those names to protect the registrants.

So what it says here is that now that we have the advent of this program, ICANN is presumably able to better assist with a transition of names even if there's an uncooperative registrar. So when a registrar chooses to voluntarily terminate or is being terminated, that registrar will be asked by ICANN Org to nominate a gaining registrar. And in the event that a gaining registrar nominee is provided by that registrar, it would generally be accepted by ICANN org for the following reasons. It's usually the best case scenario if the registrar has a relationship potentially with another registrar or has dealt with another registrar behind the scenes or has some sort of agreement in place, then the registrar would be more likely to cooperate and provide the requisite data to that gaining registrar.

Similarly, if the registrar is involved and makes its own choice, that would potentially minimize customer confusion because the losing registrar, terminating registrar would be in a position to

communicate with its customers exactly what's gonna happen and when.

There are some limited circumstances where a terminating registrar's gaining registrar nominee may not be accepted. The most common reason is that once a gaining registrar nominee is provided, ICANN Org would work with its compliance team to ensure that that gaining registrar nominee is in good standing with its compliance obligations. So if there's some sort of outstanding breach with that registrar or another issue that ICANN org is aware of, it would not be in a position to accept that nomination. So if that were to happen, the terminating registrar would be asked to nominate a different registrar or an alternative registrar. And if not, then ICANN org has a process in place under which it would choose the gaining registrar to take those names.

So that is what's on this slide. If there is no nominee, which unfortunately in some situations when there's a registrar that's gone rogue or is unresponsive and doesn't nominate a gaining registrar, ICANN Org would follow the, as Owen put in the chat, the DARTPA, the Deaccredited Registrar Transition Procedure to find a gaining registrar to take these names.

So there are two processes under which it would find a gaining registrar. And that depends on the type of portfolio that the losing registrar, the terminating registrar has. So in cases where there are very few names or the names are spread across a lot of registries, the registrar is unresponsive, there might be a data escrow issue, the deposits are not up to date or there's exigent circumstances, for example, the registrar had a gaining registrar nominee that fell through at the last minute and ICANN has to act

really quickly, then ICANN would revert to its fast track process, which is a process that ICANN Org has a list of registrars who have volunteered to help orphan registrants in these circumstances. And ICANN would just work with registrars on that list to see if anyone would be willing to take the names.

If there's a large portfolio of names and the data associated with those names is believed to be both available and reliable and there's a large portfolio, then ICANN Org would put out a full application for those names. And that was in response to registrar feedback. In some cases, it might be that a registrar is going out of business, but those names are of value. And out of fairness, registrar should be able to apply. And ICANN Org has a published application process of how it evaluates those applications. So any accredited registrar can apply to be the gaining registrar for those names. And ICANN would go through the DARTPA or the Deaccredited Registrar Transition Procedure to identify a gaining registrar in those cases.

So that's kind of an overview of the limited text about ICANN approved transfers and also the procedure that accompanies that ICANN approved transfers text. So what we'll do now is go over the two charter questions and where those were derived from. So charter question I1 provides that in light of the challenges described in section 3.1, which is described in section 3.1.7.2 of the final issue report, should the required fee in section 1B2 of the transfer policy be revisited or removed in certain circumstances? And just for reference, section 3.1.7.2 of the final issue report is the section of the issue report dedicated to ICANN approved

transfers or bulk transfers. And you can find that information on pages 50 and 51 of the report.

So in discussing the DARTPA and some of the challenges associated with it, ICANN Org colleagues, the ones in charge of managing that process have noted that the requirement to pay the fee in the transfer policy, that \$50,000 fee can cause challenges in certain instances of deaccreditation.

So an obvious example of that is even if a portfolio is large and there's more than 50,000 domain names under management, if there is a registrar that is known to have a huge portfolio of abusive domain names, asking a gaining registrar to pay \$50,000 or that one-time flat fee to receive those domain names is not a very incentivizing prospect. And that the team that manages these has notified the policy team that was in charge of putting together this issues report that this has caused problems in the past. And could the group look at this fee, maybe revisiting it or removing it in certain situations, for example, if there is a terminating registrar with some known abuse issues, for example.

And of course, the reason that there are concerns here is that even if a registrar has a notorious abusive domain name portfolio, there may be legitimate registrants there that through no fault of their own or some sort of business failure by the registrar, they may be at risk of losing their domain name if a registrar were not willing to take on those names. So that was one issue and that's kind of where question I1 derived from.

The second charter question was derived from a registrar public comment to the issues report about bulk transfers. So that

question notes that should the scope of voluntary bulk transfers, including partial bulk transfers, be expanded and or made uniform across all registry operators? If so, what types of rules and considerations should govern voluntary bulk transfers and partial bulk transfers?

So the public comments received on this noted that the current scope of ICANN approved bulk transfers is very limited. And as we noted earlier in these slides, it's really just used for terminations, involuntary or voluntary, acquisitions, or termination of an RRA, voluntary or involuntary.

So some registries are not required so some registry operators have a service called the Bulk Transfer After Partial Portfolio Acquisition or the BTAPPA and they provide this service, but not all registry operators do. And at least one registrar commenter noted that this causes some confusion and complication and their comment requested the standardization of the bulk transfer process would help registrars acting as resellers to more efficiently consolidate their domains under management onto a single IANA credential and would also harmonize divergent processes between registries, adding transparency and efficiency to the DNS ecosystem limits competition and free trade.

So in response to these questions, the first question is about that \$50,000 fee. We received feedback from the Registry Stakeholder Group, Registrar Stakeholder Group and BC. Specifically, the Registry Stakeholder Group agrees or recommends a review of both the required fee as well as the quantity threshold and possibly discussing removing those requirements in the event of the exercise of the DARTPA. The Registrar Stakeholder Group

also noted that if there's a large portfolio of names and there's 50,000 names under multiple registries, that could be cost prohibitive for a bulk transfer. Also, the Registrar Stakeholder Group has requested more information about the frequency and total domains for these bulk transfers. And lastly, for this question, the Business Constituency noted that in the case of a \$50,000 flat fee has shown itself to be a problem in terms of securing a registrar to take over a deaccredited registrar, then there could be consideration of a fee dependent on volume. So those are some of the initial early input we've received from the groups on the first question.

And then with respect to the second question about bulk transfer standardization, the Registry Stakeholder Group provided feedback that it does not support enforced uniformity of voluntary bulk transfers across all registry operators, that it should be up to the registry operator to use its bulk transfer capability as a competitive differentiator. And the Registrar Stakeholder Group provided some questions for feedback and further information requests from I think ICANN Org noting that while it might be desirable, what is the frequency of these types of transfers? Is it common enough that a uniform set of rules should be established? This would require process changes for registries. So the cost to make the changes should be justified through common usage. With additional information, the Registrar Stakeholder Group can provide better feedback.

So support staff has taken note of these questions. And if there's any other questions or information the group thinks may be helpful in discussing these questions, then we can take those back now.

But what I'll do now is put the charter questions back up and turn the mic back over to Roger and to see if there's any initial reactions or questions and concerns from the presentation at those slides that we can assist with. Thanks.

ROGER CARNEY: Great. Thanks, Caitlin. Great summary of where we're standing on this. Looks like we have our first taker. So Catherine, please go ahead.

CATHERINE MERDINGER: Thanks. I thought the, now I don't remember, the comment from the Registry Stakeholder Group, the first comment that we should relook at the numbers essentially involved in that 50,000 doms and \$50,000. I thought that was interesting, but I'm not sure what to make of it exactly. Is that too high? Is that too low? Is the amount too high, too low? I appreciate that maybe they don't want to comment on the fees side. It is a little weird just to have the fees, but I think I would like to understand better. Like a review of both of them is great, but do you have a suggestion maybe is what I'm looking for. Thanks.

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

THEO GEURTS: Yeah, thanks. So going through the slides and the information, thanks for that, Caitlin. I think there's some work to be done here,

though minor, especially when it comes to the deaccreditation path. I mean, from what I've seen in reality, most of that stuff is working. And if there's something not working, I suspect that staff potentially has most of the information of all the issues they encounter when there is a registrar being deaccredited. Net4India might have been a useful case in the past for learning experience.

Again, there's still some work to be done. I mean, you also have the situation where a reseller becomes a registrar. And basically what's on the table now, that reseller who becomes a registrar has to go through the regular transfer process, which we made more and more difficult to do for such parties because we just made sure that the TEAC came into place only accessible most likely to the registrant. So that's going to be somewhat of an issue here.

And generally what I'm thinking is lacking here is the entire possibility of a reseller portfolio being able to transfer in bulk through another registrar to another registrar. I think that is completely missing here. And I think, and I've mentioned this before, like a year ago, I think with the TEAC in place, it's going to make impossible for resellers to transfer their portfolio to a better registrar for better prices or better technology. And I think that is hurting the registrant in the end. Thanks.

ROGER CARNEY:

Great. Thanks, Theo. The concept that you were talking about that to me sounds like it's a partial portfolio move from one registrar to another. Obviously it's most likely a full reseller move, but it's just a partial move for the sponsoring registrar. So I think that we can

definitely get into that and see what that looks like. So thanks, Theo. Owen, please go ahead.

OWEN SMIGELSKI:

Thanks, Roger. Thank you, Caitlin, for the good summary of things. A lot of those are issues and concerns that I was thinking that we do need to address. And take care of going forward. So I really won't belabor those points already raised. But just two things I did want to raise here. I think at some point when there is a registrar being de-accredited under the DARTPA, and thanks for using that pronunciation, which I think we used back when I was at ICANN discussing DARTPAs, sometimes ICANN does solicit bids on this. So it's not necessarily a, say, a \$50,000 fee. Sometimes there's almost like a bidding war for registrars to go after portfolio acquisitions. So I don't know if that's something that we might want to consider because that could have a concern, competitive advantages, disadvantages. Some registrars may not be able to afford the costs, etc., or might overpay for customer acquisitions that way as part of that bulk transfer process.

And another thing kind of touching on what Theo was mentioning about resellers. That is something that is going on right now. Registrars are indeed transferring, say, if they are not yet accredited in .horse, but they want to sell .horse domains, they could become a reseller of another registrar and then gain their massive portfolio of domains there, and then eventually want to transfer it over to their own credentials. They can do that now because it's not prohibited by the ICANN policies there, and specifically the transfer policy.

And so that was kind of the rationale for the registrar stakeholder group, was to kind of bring this practice that's going on and make sure that there are some requirements on it, not to make it onerous or prohibited, but just to make sure there's a basic set of minimum things that are going on to ensure that registrants are not disadvantaged and that it follows a prescribed and a process that's predictable. Thanks.

ROGER CARNEY:

Great. Thanks, Owen. Yeah, and I think to Theo's point, I won't put words in his mouth, but Theo has brought this up since early in the transfer discussions. And to your point on the onerous thing, I think that's the issue is, there's workarounds today. And like you said, maybe we can put language around and make it a little more standardized or however we want to do that. But I think some of the security measures that we put in with our first recommendations, obviously hamper doing things in bulk. You don't want to send emails to all those people because they're not the ones initiated and all this and that. So I think that obviously there's some areas that we do need to discuss along those lines. So thanks, Owen. Rick, please go ahead.

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Thanks, Roger. Just a quick response to the comment that Catherine made about the comment from the Registries Stakeholder Group about that the fees and whatnot deserve a review. So just to provide some context around that. So we'll note from the Registries Stakeholder Group that all of these fees and the structure of all this was, as I believe Caitlin noted, built back in

2008, which was, of course, prior to the advent of new gTLDs. And so at that time, there were a certain number of TLDs in the marketplace and registrar portfolios looked a certain way. And so if a registrar went through deaccreditation, one would have a reasonable expectation of how many registries there would be involved in a deaccreditation move, the execution of those kind of transfers. And we could sort of reasonably anticipate something like that.

Today, obviously with a lot more TLDs, the way that that fee structure might look is really kind of anybody's guess because there's a lot of different kinds of registrars and a lot of different registries. And so the math on that can get pretty complicated. It's not like a registrar is only doing business with one of the original like pre-2012 registries.

So we don't have a particular, in the Registry Stakeholder Group, we haven't discussed a particular recommendation of what that fee structure might be changed to, but just that it is antecedent of the emergence of new gTLDs. As Owen says in the comments, there could be hundreds of TLDs in a DARTPA going to hundreds of different registry operators. And it's a one-to-many problem. Whereas previously, I think it was more thought to be a one-to-few problem when this was originally conceived.

The other thing, and this isn't really within scope of our discussion, but probably just an editorial comment and really probably not even coming from the registries, but I, as just me observing, will note that a lot of time the challenges regarding these things of the de-accredited registrar, the DARTP and whatnot, these kinds of de-accredited registrar things would be easier to unravel if they

were de-accredited more quickly by ICANN Compliance. In my experience in the industry is ICANN compliance waiting around and the registrar's portfolio deteriorates considerably and operationally. And that makes it actually harder. I think that the industry would be well-served if the de-accreditation is going to happen, if it would happen more quickly. But as I'll note, that's not an opinion that's been really consensus-approved by the registries. Thank you very much.

ROGER CARNEY:

Thanks, Rick. Yeah, and again, it's that tough balance of trying to save it or, you know... And another thing that I've heard discussed and maybe some of the registrars speak to it as well, is not only taking the portfolio over and working with the registries and everything, and working with the registries and everything, but when a portfolio is moved from [inaudible] Especially a de-accredited or [inaudible] There's registrants that want to move them somewhere else. So there's the whole exercise of moving 200,000 names, let's say, to a new registrar. And then [inaudible] of those names transfer immediately because they wanted to go somewhere else for the past, as Rick mentioned, for the past six months or so, that they already had somebody picked and they just couldn't do it. So it's one of those where, obviously, there's a balance that needs to be done there.

Any other comments on this? So it sounds like that we have some... And I think Theo kind of kicked this off maybe in the ICANN bulk there's some small tweaks, but it sounds like there's some bigger tweaks that Owen and Theo both kind of touched on, on the partial transfer kind of ideas. But obviously these two

charter questions seem to hit and seem to elicit some good conversation. So I think we'll be able to dig into these really well. But any other comments or questions on these? And I don't know if any of the Registry Stakeholder Group or registrars or the BC have anything to add onto their comments here, but that can please do as well. So, Jothan, please go ahead.

JOTHAN FRAKES: Yeah, so I'm an alt here, but I want to maybe use my co-chair of the Tech Ops just to comment that since 2008, the concept of premium domains has come into play. And we've updated and kind of modified a lot of the EPP systems to handle premium registrations and renewals. We definitely want to factor in, since it's evolved since 2008, that there may be domains that might come over that have a high pricing, such that if they're identified as premium, may need some special handling. And that wasn't present in the previous scenario. Now, it does tie into pricing, but it doesn't necessarily tie into the required fee on bulk transfers. But it should be a financial consideration is why I raised this.

ROGER CARNEY: Great, thanks, Jothan. And I think that outside the financial, I think that, as Rick mentioned, the landscape has changed quite a bit. Definitely more registry operators in the path. And now, as you just mentioned, Jothan, different kinds of structures as well. And I think that that's one of the considerations that has to be looked at whenever a transfer is happening, is, does the new registrar support the multiple tiers or pricing models? And again, we don't

need to get into anything specific on them. It's this, do they support multiples for that TLD and everything else?

So again, something just to consider, and is there any wording that can go into any of that, or at least any, as Jothan mentioned, maybe just something thought-provoking to recognize when someone does start this, even ICANN itself, when it goes to look at that that there are new issues that we're looking at today that we weren't looking at back then.

Okay, any other comments or questions from anybody? Okay, so again, we're not meeting next week, so we'll be meeting in two weeks. And I think Caitlin gave everyone two weeks for the homework on the TEAC update and the TDRP updates. So obviously take a look at those before we meet again and put any comments into the working documents or on list. So that we can get those incorporated and get that part of the work, maybe not closed, but definitely behind us so we can move forward. And I think a key here is to start looking at these two charter questions and focus on charter question one there. And we'll start to work on that when we resume meeting on July 11th. I'm not correct, correct? Or if I am correct, July 11th, I think.

So anything else from anyone or from staff? Okay, great. Again, take a look at that homework and start to dig into these two charter questions and get your thoughts behind them and see where we can look to add and make things a little better than they are today. So I think with that, we can call the meeting to close and give everybody a half hour back. Okay, Julie, you can take us out.

JULIE BISLAND: Great, thank you so much, Roger. Thanks everyone for joining.
This meeting is adjourned. Have a good rest of your day.

[END OF TRANSCRIPTION]