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SUE SCHULER: Great. Thanks. Okay, Rick.

RICK WILHELM: Good morning, good afternoon, and good evening, everyone. Today is 28 July 2020. Welcome to the CPH internal meeting of the RA and RAA Amendment Discussion Group. Donna has another commitment today so I'm serving as guest host. So, welcome, everybody. Thanks for taking the time to join. As I've said, we've gotten regrets from Donna. We may still get a join from Neuman. Other than that, I think we've got a pretty good quorum of the assembled group. Ashley, do we have good enough quorum from the registrars to continue discussions? I think on the registry side, we've got the necessary folks here.

ASHLEY HEINEMAN: Let me look. I'm probably not the best one to gauge. I know that there are some folks that couldn't make it including, I believe, Jody Kolker. Yeah, let's call this quorum unless any of my colleagues from the registrar side of the house think we need to wait.

GRAEME BUNTON: We're a little light but I think we can go ahead.

RICK WILHELM: All right. Very good. Sounds good. Thank you very much. Okay, so today is our second back-to-back Registry/Registrar internal meeting and as we prepare for next week's meeting with ICANN

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Org. Last week I think we had a good call where we went over the feedback from ICANN Org and we talked about all of the feedback from ICANN and kind of went through and discussed all of those things at a fair degree of depth. So per Donna's note, one of the things that we'd like to do today is really try and understand and get a sense of the group's priorities and orient ourselves around what we think the topics of discussion might be and should be for the next meeting with GDD and really probably try and figure out what are some things that we can agree on and focus on those, try and get to some agreement on those, and then probably save for later the items that we're less likely or probably going to have more difficulty agreeing on.

So you've seen the kind of rough agenda here that we've got in front of us that Sue helped put together based on some e-mails that we saw from Donna and then also one from Karla, any discussions or comments on the agenda itself as a macro topic, as the saying goes, agenda bashing before we start off. Comments on the agenda? Seeing none, why don't we go and let's look at this first thing talking about what our priorities are. Why don't we go scroll to Donna's e-mail, Sue? I think we've got that down a little bit. Is that correct? Okay.

When we think about the five topics that we had there, we had the process for updating your RDAP profile, the SLAs, searchability of RDAP, timeline for sunseting, and emergency threshold triggers. One of the things that Donna and I were talking about that probably the two most difficult ones that we're going to be talking about are related to sunseting WHOIS and the SLRs. Those are the areas that I think we're probably more farther apart on.

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Sunsetting WHOIS, you recall ICANN had proposed 18 months after the 6-month ramp-up. SLRs, ICANN is wanting 2000 milliseconds for both – this is the response time SLR – the registries and the registrars. Right now we propose 5000 milliseconds, whereas on the process for updating the RDAP profile, I think we’re moving towards some common ground there. Searchability, we discussed that while ICANN wants to keep searchability, they appear to be open to it being RSEP out if RSEP can be used as a verb, as well as the fact that they’re saying that this requirement for RDAP searchability would only apply 180 days after a technical standard was available. And then the emergency thresholds triggers, ICANN had said that an emergency threshold, an SLA failure of WHOIS during the time of concurrent operation would only be a breach rather than emergency trigger for EBERO purposes.

The quick summary of the five issues, that really sort of leads to a general assessment that this really open for discussion that on the latter three that you see in Donna’s second paragraph – RDAP profile, searchability, and emergency threshold – we’re probably closest on those three. Perhaps we would try and get a proposal together on solving those three for our next call with ICANN. So from a macro perspective, that I’d like to put up for discussion first as far as what our goals would be for the next call. Let me open that up for discussion and take some comments and input on that macro prioritization and agree or disagree. I certainly opened up all sorts of input on that. Thoughts from the group, please. If you agree with the prioritization, that’s also good input too. This is something that Donna and I had chat about but if you’re in agreement, that’s good comment.

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Brian says, "I think you have the top priorities right" in chat. Galvin has a checkmark. And no one else has any thoughts as of yet. Catherine has got a thumb's up. "I approve," Sam agrees. Okay. Does anyone have any alternatives here where they think that we should be saving either of these three topics – RDAP profile, searchability, and emergency threshold trigger – and solve them last along with WHOIS and the SLRs? For either proposing to pull any of those three out and saving them in the difficult batch? Sam, please go ahead.

SAM DEMETRIOU:

Thanks, Rick. If I had my choice and I'm not sure ICANN wants to go down this path, but I think if I had my choice, I'd maybe carve out the process for updating the profile just because I do think that is a more complicated conversation that goes way beyond the context of just our agreements. So if it's possible to put that off as sort of a topic to be discussed after we settle the other four issues, that would be my vote but I'm happy to hear what other think.

RICK WILHELM:

All right. Very good. Thoughts from others? Brian, please go ahead.

BRIAN KING:

Thanks, Rick. I agree with Sam on that. I think what the SLA is going to be, that's a zero-sum game kind of question, the process for updating based on new technical standards development. That's more complex and probably a lot more to unpack there. So

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if Sam thinks so, I would definitely agree that that's something that we could tackle separately.

RICK WILHELM: Okay. Good input. I appreciate that. Jeff just joined us. Jeff, welcome.

JEFFREY NEUMAN: Sorry, a client called, went on way too long. Sorry.

RICK WILHELM: Pesky clients. Can't live with them.

JEFFREY NEUMAN: Yeah, I know. Especially as a consultant now, I need to –

RICK WILHELM: There you go. Now you're really stuck. So, Jeff, I'll just catch up quick here because you probably have some comments on this one. So we're talking about doing the prioritization and order in which we want to try and solve the open topics that we have. Just to review, the five open topics that we have are in no necessarily particular order: the process for updating RDAP profile, SLAs, searchability, timeline for sunseting, and the emergency threshold triggers. You can see those in the second paragraph in the blue text of Donna's e-mail there. Of those five, generally we're thinking that the sunseting timeline in the SLRs are going to be difficult once unpacked. Brian has interestingly termed them as "zero-sum

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game” and I’ll sort of characterize that, not to put in Brian’s mouth but they’re going to be quantitative rather than qualitative and we’re going to get it a number and we’re going to figure out what the number is on these and end up at a number. Then the other three – the process for RDAP profile, searchability, and emergency threshold trigger – we’re probably a little bit closer to solving now. So perhaps those could be solved first.

Now in some subsequent discussion here, just literally right as you’re coming on the call, Sam suggested that the process for the RDAP profile, we might think that we’re pretty close there but that one is a relatively complicated topic and perhaps rather nuanced, and so maybe that’s one that we ought to save and do that one a little bit later just because it’s more subtle and complicated. Hopefully I didn’t get too far past, Sam, what you were trying to communicate there. And, Brian, largely agreed with that. Pulling that one apart from searchability and emergency trigger thresholds where I think that we’re pretty much okay with where we are and the proposal that we would end up with is going to be probably easier to come to an agreement on. Sam and Brian, hopefully I captured what you said okay in my reiteration/restatement of that. Jeff, please go ahead and comment.

JEFFREY NEUMAN:

Thanks for the update. I think that that’s great and again I apologize for being a little bit late. Where is the issue of ICANN providing the user-friendly lookup service? That’s not on here. I don’t know if we’re taking that as they’ve already given it, which I don’t take it as they have. But that is probably one of the biggest

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issues for registrars. So searchability is not an issue for registrars. Even the emergency trigger threshold is not an issue with registrars because there's no EBERO of registrars but it's also dealing with breach so there is some applicability, but nowhere in here that I see the topic of them providing the user interface.

RICK WILHELM: That's a good point, Jeff. Personally, I'm happy to take others reads of the document separately but in my read of it, they'd agreed on this one and I thought that we had concluded that. Now maybe it's something that we need to confirm. Do others have a position or a conclusion on that one? Or do others have the document handy?

JEFFREY NEUMAN: Yeah. They never outright said they were going to do it. They said that they wanted data from the top 10 registrars but they didn't say, "We'll definitely do it." So I think they're still using it as a bargaining chip.

RICK WILHELM: Okay. Anyone else have any opinions or perspectives on that? Not at the moment it appears. Okay, so maybe that's something ... One, agree, Jeff, that between both the registries and the registrars, we need to confirm that because while it matters to the registrars, it also matters to the registries. Right now I'm using my superpowers to know that Jim Galvin is nodding. Even though he doesn't have his Zoom camera activated, I know that he's nodding in agreement. So it matters to the registries also on that point. So I

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think that we need to go to the documents that they've submitted and confirm that one, I think. I'm certainly happy to take others' comments on that. There you go. Jim confirms the suspicion and now he's looking around the room to see where the cameras are in his room where I can detect this.

Jeff, do you have any comments on the question of, should we pull out the process for updating RDAP profile and pull that one out separate?

JEFFREY NEUMAN: Yeah, because I think at the end of the day, I get the feeling that that's just administrative task at this point as opposed to any disagreement, hopefully. I mean, that could always come back onwards, but yeah.

RICK WILHELM: Okay. Jim, please go ahead.

JAMES GALVIN: Thanks, Rick. I like what Jeff just said. It's an administrative task, but what I worry about is they're using that administrative task because they want to make changes to the content and there's just technical issues in there. There are requirements that are in that thing and that's what we have to be cautious about. Anyway, that's what worries me in this RDAP profile business.

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JEFFREY NEUMAN: Yeah. That's why I said it may come back on the list but at this point, at the end of the day, if you look at the way consensus policies are developed, and technically – once a consensus policy is agreed upon by the community, meaning it's voted on above the Council then it's a super majority of the Board, it becomes a consensus policy. The bylaws give the sole right of implementation essentially to ICANN. And yes, it needs to form an IRT but at the end of the day, it's ICANN that's responsible for the implementation. So the fact that they want to discuss this is actually good for us because then we can try to put some controls in place. But at the end of the day, they really don't have to discuss that issue with us. Again, it has to be a consensus policy in the first place. I hear what you're saying, Jim, that there's ways that they can actually make it worse or make it bad for us but in my view, this is very high level. It could never be worse than what technically ICANN has the right to do under the bylaws.

RICK WILHELM: Thanks, Jeff. Jim, please go ahead.

JAMES GALVIN: I'm sure that Rick can speak to this more carefully. I take all of that, Jeff. So then the concern is that strictly speaking I would say this RDAP profile was not really a consensus policy per se. We just need to be a little careful about that because the RDAP Working Group doesn't really have standing and that's what this came out of. Anyway, maybe Rick should speak to that instead of me.

RICK WILHELM: Yeah. I think the RDAP profile was a result of the RDAP requirement which was not a consensus policy. I think that's the biggest thing. It's a contractual requirement to implement RDAP, and so I think that that's where the origins for RDAP are. It's not in a consensus policy. Its origins are in a contractual requirement. Therefore, using Maxim's words from the chat, trying to glue a policy onto that contractual requirement is something that I think that the contracted parties need to be careful about giving too much ground on.

JEFFREY NEUMAN: Hold on, sorry. That's not what I'm saying. What I'm saying is that once we agree on this first profile and we agree on this amendment, at that point the amendment says it can only be changed by a consensus policy or by another contractual amendment following one of the other processes in the contract. So that means that in the future, a consensus policy could change or could require a change to the profile. That's what I'm addressing. Absent any additional safeguards for us, ICANN could technically lead the implementation to change the profile pursuant to a new consensus policy without technically requiring our input, but that's not going to happen and we're going to write in and we are writing in some controls in there. That's why I'm putting the issue lower than some of the other ones. That's it. It's not saying it's not a concern. I'm just saying it's something we can put on the backburner for a little bit.

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RICK WILHELM: Yeah. Thanks, Jeff. I think that one of the things we'll need to be careful of is that this is a spot where if the group isn't careful, we could be subject to a bunch of requirements being trucked in and deposited in our laps, so that's why being careful about it and discussing it separately. I think that's where Sam was getting to with this is that there's a fair bit of subtlety in this. Therefore, we should pull this apart from the other two – emergency trigger thresholds and searchability – and separate that one from even the things like WHOIS, Sunset, and the SLRs, which are going to be more quantitative and have this more qualitative discussion with more subtlety and nuance, separate from those that are more quantitative. I think that's where Sam's comment was taking us. So I think we're in agreement on that topic. Is that fair?

JEFFREY NEUMAN: Yeah, sure.

RICK WILHELM: Okay.

SAM DEMETRIOU: For all those reasons, all the kind of complex reasons, I think, Jeff, like you said, it's worth discussing this topic on its own. Yeah, I think we're on the same page.

RICK WILHELM: Okay. It sounds good. Brian will be back in a little bit. I just recognize the fact that he will be stepped away for a minute. On

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the couple that we are hoping to get taken care of – and noting also that the user-friendly lookup is I think one that we need to add to our discussion with ICANN, and thanks, Jeff, for re-raising that one – on searchability and emergency trigger thresholds, is the group generally comfortable with the position that with the approach that ICANN has set up on both of those topics? Searchability basically is that the registries would be required to do it, that this is a registry requirement, not a registrar requirement as Jeff had highlighted previously, but that requirement would kick in only 180 days after the existence of a standard. Also, ICANN has indicated they will be open to accept RSEPs on those. And then on the emergency trigger threshold, they provided updated language that a SLA violation of WHOIS during the period of concurrent operation would be only breached and not an emergency trigger threshold. So how do folks feel about the ICANN proposal on those two? Anyone have any comments on those?

Maxim put a comment in chat, “Only those who don’t, RSEP it out. That’s why we need someone RSEPPing that out.” Maxim, do want to make it the mic if you want to. Jim has his hand up. Jim, go ahead.

JAMES GALVIN:

I guess I struggle with how to push back on this searchability thing. I think we all understand what’s going on here. The truth is for me, I think that to the extent that this is about public queries and unauthenticated queries, I really struggle with how it is that searchability even matters and is part of this discussion. That really needs to be part of authenticated queries. I still wonder –

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isn't it possible to tie those two things together? So we get out of this 180-day requirement and we say, "We want to deal with searchability but only for authenticated queries." Honestly, searching just doesn't make much sense, if any, at all for public queries. So I guess I just don't know where to go with that. Other than that, I suppose I can see this point. It's not the worst thing in the world to say that 180 days later when there's a standard, we'll have to allow searchability because I can't even imagine what's going to be in the standard. I can't imagine what queries, which search is going to make sense in a public query because there's no contact information. So the only thing that's useful to search on is name server records and that has very marginal utility except in an operational sense.

Anyway, I'm sorry. I'm just sort of rambling a little bit here. I'm trying to make the point that I've made before. I guess the only new thing is, can we tie these two authenticated queries? Is there any way that we think we might be able to get them to buy into it that way instead of 180 days? Thanks.

RICK WILHELM:

Good question, Jim. I think that that's an interesting point about linking two authenticated queries rather than public queries. Anybody have any thoughts on that topic as it relates to searchability writ large related to privacy in those topics? Any comments on that?

BETH BACON:

I'm sorry, Rick. Can you repeat what you just said?

RICK WILHELM: The real question is – Jim brought up the context of searchability and he’s saying that could we perhaps pivot this to deal with searchability in the context of authenticated queries rather than searchability in public queries. Because Jim is theorizing that the virtual Venn diagram of searchable public queries really has almost a null intersection, to sort of summarize it. So what’s our thoughts about that? And pivot the discussion away from searchable into searchable and authenticated. Catherine, please go ahead.

CATHERINE MERDINGER: Hi there. Just looking at the Donuts RA – and I’m going based on this and I’m not an expert – the RA says that we have to do searchable WHOIS for authenticated users after they’ve logged in [inaudible] client proper credentials. I get that that’s different than authenticated in the sense that the SSAD, and so I’m just wondering if we’re conflating searchable WHOIS for public queries when at least in Donuts’ case, it’s not public. It is authenticated in a different way and we really have no users. So I guess I’m confused how we can separate this when ... Am I making any sense?

RICK WILHELM: Yeah. Basically, Catherine, if I’m hearing you correctly, you’re saying that based on your read of the Donuts agreement, qualify, qualify, qualify, you’re saying, look, the Donut searchables are already being authenticated in some manner. Now, perhaps not

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authenticated in the same way that a future SSAD might contemplate authenticating them but they aren't just completely unauthenticated pure public open WHOIS queries as though one might get on a Port 43 server or on let's say Donuts public web-based like a [www.whois.donuts](http://www.whois.donuts) or whatever it is, something like that.

CATHERINE MERDINGER: Yes, exactly. I guess I'm wondering about Jim's definition of "public" because it's not like anyone can go and willy-nilly search on our search [progress].

RICK WILHELM: Right. Okay, thank you. Very good point. Beth, please.

BETH BACON: Thank you for rephrasing it earlier. My brain has turned to mush. I have the same question. Maybe it's just that Jim is using a term in a way that it means one thing to me and one thing to him, a different thing to him. But under the PDP in the Temp Spec, no WHOIS or RDDS search should be showing any personal data at all. So I'm not sure what he's meaning by authenticated because it shouldn't be showing personal data no matter what. And that would be the responsibility of each registry or registrar, to make sure that they would never return that information unless they've done the review that's required. But then again, I could be also misunderstanding Jim.

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RICK WILHELM:                   Okay. Thank you, Beth. Jim, please go ahead.

JAMES GALVIN:                   No, Beth is right. When I talk about authenticated queries, I'm actually talking about it independent of any privacy requirement. I'm just thinking about authentication in the pure technical sense. Right now, from a pure technical point of view, RDAP queries are public and the deal is you can make a query and there's some set of information that you get back. Anybody can send that query so you can basically make anonymous queries. So anonymous queries come in and you're going to get some data back, whatever that happens to be. Right now it's limited to DNS operational data, if you will. It's sort of limit of what gets out there, for the most part. What I'm observing is just that searchability to registries under WHOIS was always allowed – well, most of the searchability options from the technology point of view, and searchability refers to anything other than an exact match lookup of domain name for all of the contact information that always came out. That's what WHOIS used to give you. Give it a domain name, you get a blob of stuff. That's an exact match lookup that's a subset of searching but let's just set that aside. Searching is being able to say, "Okay, here's the label, here's a prefix. Give me all the domain names that look like this name." Or all kinds of other things that various registries in an ad hoc way learn to support WHOIS. I'm simply observing that historically under WHOIS, all of those were anonymous queries. So any random Joe user person or Josephine user person could step up and ask for anything and they would get a blob of stuff. In today's world, searching really just doesn't feel like it makes any sense whatsoever in the

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anonymous world because there is no data that's generally available. This amendment and everything we're talking about here is solely about public queries. Because the RDAP profile which currently exists is solely about public-based queries in a privacy sense. Public-based queries, meaning there's a limit to how much data you can get back. Right now there's only exact match lookups. That's really all that the Temp Spec allowed for was exact match lookups. People might have adapted whatever searching mechanisms they had, but again it's just not there.

I'm trying to pivot that and I understand that – this gets back to this whole thing about number of queries, right? They've got this whole idea, this nonsensical idea that there have been millions of searches and their definition of searches by data which they find out there and they believe that they have to continue to support that. I think that cleaning up that data, maybe I'm back to the idea that cleaning up that data is kind of important even though we have other reasons for not cleaning it up because I'm just not seeing searching, it's not a useful thing.

Yes, Jeff is saying there's a legal definition of searchability in agreement and all of that is true. I really don't know what the right path is out of this. I'm looking for a pivot point away from this. In general, we have this argument that RDAP is not WHOIS and they're not willing to pivot away from the fact that this is new technology. You've got to be dealing with principles here, not precision. I get in a legal context, that's really hard to deal with. All right, I'll shut up now. Sorry.

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RICK WILHELM: Very good input, Jim. Thank you very much for that. Beth, is that a new hand?

BETH BACON: Yes, it's a new hand.

RICK WILHELM: Please, go ahead, Beth.

BETH BACON: Thanks, Rick. Jim, I completely get your point and I do agree that it's important to capture that in our discussions. And I think the base of what your concern is that perhaps the technology of RDAP will allow the type of search that would add context to a data search that would then convert something that would have been not personal data by adding context that then becomes personal data. I don't know there's a conversation to necessarily dig until we have a point of view. I will note that the EPDP Phase 1 does mention RDAP and taking that into consideration. So maybe our step on our side is to go back for this group, look at what the EPDP report says in relation to how we handle searches and disclosure with regards to RDAP and then move on from there, and maybe develop a proposal as opposed to just having the conversation. Because I don't think that we are all as a group clear on what we want or what the issue might be.

RICK WILHELM: Thanks, Beth. Good points. Jeff, please.

JEFFREY NEUMAN: I think we need to remove the policy from these kinds of discussions. So we may feel and as Beth said, the group hasn't come to, whether it's the EPDP or even the registries or registrars or whatever, having come to a position on that policy issue which is a real one, I think we need to focus on the strict language of the contract. I still think there are holes legally in ICANN's argument of if you've agreed to searchability with one protocol, you've agreed to searchability with another, I still think that that is the avenue to fight back on this. I mean, if you look at the first requirement of searchability, it says registry operator will offer searchability on the web-based directory service. RDAP is not a web-based directory service, so right there and then, it's apples and oranges. But the focus needs to be on the current contractual language and I would make a strong argument, Catherine, that authenticated access for the purpose of your contract is really in line with 1.10.6 of that Spec, which is you're implementing appropriate measures to avoid abuse of the feature, e.g., permitting access only to legitimate authorized users. Although the second part is a little bit harder which says, "Ensure the features in compliance with any applicable privacy laws." Actually, that one you could use to fight back ICANN as well by saying, "Look, that's what the EPDP is considering and until they consider this issue and until we know or have a solution that we think is in compliance with applicable legal laws, we can't meet that requirement of 1.10.6."

So, sorry. Long way of saying that they are trying to use apples and oranges and relying on the backup solution of, "Well, we'll just all submit RSEP request." That has got the huge potential

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backfiring against us big time in the community. To see the contracted parties don't want to do this, they'll define searchability how they want as opposed to the way it's defined in the contract. You're going to have a lot of egg on the face of the contracted parties and ICANN is going to come out looking like the fighter for truth and justice and whatever. So I don't like the backup solution, I think it's terrible. I think it just punts into that we're the bad guys.

RICK WILHELM: Thanks, Jeff. So what would be the alternative? And this is to the group, not necessarily to Jeff but to the group.

JEFFREY NEUMAN: If I were representing the registries, which I'm not, but if I were representing the registries, this is an issue you can actually start pushing back on now with the current system. Because those that have adopted searchability can say, "Look, I can't ensure that this feature is compliant with any applicable privacy laws or policies." I can't even implement it now with the existing system. There's a couple of different fronts you can do without filing an RSEP. In fact, there's other things that can actually do. Sorry. I still think we push back on the point that this is not legally required. We're not even going to consider this issue at this point. But I'm not representing the registries so –

RICK WILHELM: Anyone else have any other thoughts? I think, Jim, where you were, you're less comfortable with the approach of letting go and RSEP it out. Jim, did I gather that position correctly?

JAMES GALVIN: I guess the only interesting question is I'm less comfortable with searchability being required at all. So what I'm saying is I'll concede to the 180-day ramp-up period. If that seems to work best overall in these negotiations then I'll work with that. But I'm going to continue to look for a way to get out of this idea that searchability has to be carried forward because I'm just not buying their argument, quite honestly. But from the point of view of our overall position, I can live with the 180-day ramp-up. Does that help?

RICK WILHELM: Yeah, I think so.

JEFFREY NEUMAN: Sorry. Can I ask for clarity? When you say the 180-day ramp-up, are you're saying the 180-day ramp-up period plus 180 days then Sunset? I'm sorry.

JAMES GALVIN: It's a fair question. The 180 days from the existence of a technical standard to until you have to have it on board and ready to go. So it's the searchability, a 180-day period, the technical standard appearance.

JEFFREY NEUMAN: All right. Yes. Okay.

RICK WILHELM: Then with the notion that the registry operator can either choose to implement that or choose to RSEP it out within that window based on whatever that standard looks like. Is that sort of your concept of execution, Jim?

JAMES GALVIN: Right. Well, that's what I understand the ICANN proposal to be. Sure. I'm just saying I can live with that.

RICK WILHELM: Right. Other thoughts in and around these lines? Okay. Let's move on to the emergency trigger thresholds. How do folks feel about where we are on this one? I can but don't necessarily – I don't want to just be redundant, reiterate what the current position is. So if you need a summary, just holler and I can provide that. Where folks feel like about where we are in this one.

JEFFREY NEUMAN: Sorry, Rick, in which issue?

RICK WILHELM: Sorry, this is on the on the emergency trigger threshold. Go ahead. Sorry, Jeff.

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JEFFREY NEUMAN: I think they realize that we just need to work on wording but I think we're there. They basically didn't – sorry, I'm not saying this well. Their point was that there needs to be something in place to make sure while legacy WHOIS is still required, that you have to have it up and running to the SLAs. And if you double jeopardy, you wouldn't want to allow EBERO to come in for registries. It would still be a breach, and that's true. I think the wording is going to matter but I think the concept is there.

RICK WILHELM: Yeah. Anyone else have any thoughts on this one or agreement that the revised ICANN position seems okay? Sam says, "We're agreeing." Anybody else have any other thoughts? Maxim, yes, any formal breach is a breach lead to termination but there are of course secure periods in there. But it's different than the emergency threshold, which could trigger an EBERO event. So while it is still a breach, it's different than an EBERO event. I think that that's what the registries are avoiding here. With the emergency, the EBERO event would only be on RDAP during this period, there wouldn't be an EBERO event on WHOIS. So I think that's the big difference here.

JEFFREY NEUMAN: Rick, you said that so much more clearly than I did.

RICK WILHELM: I don't know. Yes, Maxim, RDDS is a critical function. Remember, this is during the period of concurrent operation, and so during the period of concurrent operation, the EBRO trigger rests on RDAP

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and the registry operator is required to keep WHOIS up and running. But there's no longer an EBERO trigger sitting on it. If it falls over as an SLA violation, essentially it's only a breach and not an EBERO trigger. It should be in the text of the RA. Sorry, I'm not tracking that one, Maxim.

The transition period mercy. Yeah, this would be in the text of the amendment. That's what ICANN had put in there in their revised wording. I'm not sure if I would call it mercy but it is an improvement over where we were, which was a full straight out double jeopardy. They called it a clarification but this is an improvement on their side. It was either an olive branch or they really apprehended what they were talking about, Brian. But regardless, they called it a clarification but it looked like they kind of apprehended what the original language was and it looks like an improvement. But it's certainly no longer an emergency trigger and now it's "just a breach," which in the eyes of Compliance is less.

Okay, so any issues on this one? I think we've got agreement on emergency trigger thresholds here. Any other thoughts on that one? Okay.

So let me quick sum up and then we can decide whether we want to go for another half hour. How are people on the next half hour? We've kind of got it on the books, but I always think that the last half hour, this is not quite written in ink and a little bit more written in pencil. How do people feel about the next 30 minutes of the call? What are a lot of folks diaries look like? Get a quick sense of the room, how do folks feel? Brian is okay. Catherine's good. Ashley has to go. What if we tried to wrap this in 10? Okay, well,

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let's try and wrap it in 10 because I'm not sure if we can ... So let's try and wrap it in 10. Okay, we'll go with this and we'll try and ignore the eye rolls that are no doubt occurring around the room here.

Okay. So let's try and sum up where I think we are. I think we've got agreement on emergency threshold trigger that the ICANN position is okay. On searchability, I don't know that we have consensus on accepting ICANN's positions largely because where we are is that if we do it, basically, is that the registries would be accepting it and then reaching for their RSEP notebooks and everybody starting to bang out – I won't say this but it would be not necessarily everybody – but a lot of folks would be starting to head for the RSEP exits and there's concern about what that means from a "PR standpoint." But similarly, if it goes the other way and this has changed in the amendment, there would be PR issues also, I would add. I don't know if this thing on the searchability if that is going to be a clean PR situation either way. That's something that I think that we might want to think about and where that PR situation is going to be concentrated versus diffuse.

The process for the RDAP profile, I think there was agreement that it's important. We probably have agreement on how it should be done but let's solve that separate from solving the quantitative items of the SLA and the transition Sunset period. Then the other one that Jeff brought up was the user-friendly lookup, which is important one that wasn't really on the radar recently. So I think that we need to make sure that that gets some discussion to find out exactly where that one is in the discussion piece. So those are kind of important.

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Now, let me look and see at Karla's note. Do we have Karla's note here I think at the bottom? Sue, could you scroll just a little bit? Okay. So number one. When we look at these things, I think number two and number three, we've talked about. Number four, I think we've talked about on that one. I think number four, we're kind of in agreement on.

Let's look at number one first. On the objective criteria, we talked about this a little bit last time and I think one of the things that we kind of agreed on as a group was that we're better off with just figuring out the date and having the date be the date and having the calendar be the objective criteria, as opposed to trying to have some other "objective criteria" govern something related to transition. Did I recall that correctly? Let's try and have a quick sense of the room on that topic. That when it comes to objective criteria, we're not going to look at anything regarding query volumes or query percentages or hitting SLAs or something like that. But it's just like, what is the timeline for concurrent operation, how many months and hit the date and then we're done and we're dusted and get it over with. Thoughts about that? Brian's first to the queue. Brian, please go ahead.

BRIAN KING:

Thanks, Rick. I recall a lot of swirl in conversation on this. I found the date approach to be most persuasive because any of those other criteria could be gamed or somebody could submit more queries just to delay things. I think I found most persuasive, the fact that people are going to wait until the last minute anyway to do this. And if you have a date then that just solves for that. It's just the date that it's going to happen and ICANN can make a big

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announcement about when that date's going to be, we could stick to it. So I like it the best.

RICK WILHELM: Very good. Thanks, Brian. Sam has her hand up. Sam, please go ahead.

SAM DEMETRIOU: Thanks, Rick. Just want to agree with pretty much everything Brian laid out. Then also just add the point that if ICANN wants us to be at production level SLAs right from the get-go, that's sort of the point of this exercise, then I think that makes sense that we should be looking at a date, as opposed to any other kind of ramp up. So I think I see it as kind of a tradeoff. So agree on the date.

RICK WILHELM: Sounds good. Jeff, please go ahead. Good, Sam. Thank you very much.

JEFFREY NEUMAN: I agree that that should be our main approach, our first approach. I think what that might result in, though, is a longer period of operating concurrently. So that's the trade-off there. The reason I'm saying that is because ICANN want to say they don't consider the SLAs. And part of our argument, by the way, is that the SLAs are not "production level." They're not meant to be the best possible performance. They're meant to be the outside standard that is considered acceptable. So they have in their own minds

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this other subjective definition of what production-ready is. So what they're going to say is that because of that, they can't commit up front to letting us sunset it for 18 months, which is what they've proposed. I totally agree that we should go in there with the sooner date, but if they refuse to come off of 18 months to anything more reasonable, then we may have to have a backup.

RICK WILHELM: Got it. Thanks, Jeff. Other thoughts? I'm seeing you put a comment. Okay, Sam, "They want to set the permanent SLA out of the gate."

JEFFREY NEUMAN: I don't think they've said that.

RICK WILHELM: Or they've said they want the SLAs to come down in the future. They have said that. I recall them saying that.

JEFFREY NEUMAN: Yes, but they still have a ramp-up period in there. And it says in there that failure to meet the service level during the ramp-up is not [inaudible].

RICK WILHELM: Very good. Okay. I think that on this topic, I think we've got – anyone else have any comments on this? Old hand, Jeff?

JEFFREY NEUMAN: Yes, sorry.

RICK WILHELM: No worries. I think comments there that the objective criteria that Karla mentions, there really is our objective criteria is a date, whatever it is. I'll just offer one comment, in addition, is that we may get pushed on this issue of the duration of the Sunset period and the length of the transition period. And maybe perhaps commented by ICANN that says, "Well, the SLAs are a reason why we need a longer transition window." I would offer that if we agree to a more stringent SLA, that's something that both the registries and the registrars will live with forever, whereas a longer transition period is something that we will work through and will be done at some point in the future and it will be in the past. An 18-month transition period, even though it sounds like a long time, we'll be here and gone "before we know it." In the grand scheme of things, when it comes to dealing with a lower SLA for the next forever years versus an 18-month transition period, I would just rather keep the WHOIS servers up and running since they're already in place and doing their job and let that go. I mean, that's my two cents on the topic. Those servers are already in place, they're already doing their job, so I'll just let them run rather than sitting and getting stuck with a very difficult or more difficult SLA for the forever future because that's something that we're done with.

Cameron – sorry, Catherine. I'm not sure who Cameron is. Maybe I shortened your name, Catherine. Catherine, to your evil twin,

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single raised eyebrow if I could do that trick. Catherine, “Short term pain for long term gain.” Exactly. Very well put. I’ll put that on a T-shirt. So thank you, Catherine, for summarizing very eloquently. Very good.

Thoughts on how we future proof, I think we talked about that, that this is a discussion that we need to have separately. Compromise is available on finalizing SLRs. I think that if they want to compromise, I think that to my mind, while we haven’t talked about it much, moving to 4000 milliseconds is something that has been sitting there for us to discuss as a move off of 5000 milliseconds. But I don’t think that we should start moving on that until we get closer to a discussion about really getting down to a real negotiation. My concern there is that we would move too soon off of the original number that we had agreed. Anyone else have any thoughts around that? 4000 of course, being the current SLA that the registrars have, and so that’s why I think it’s a natural stopping point on way down from 5000 milliseconds. Anyone else have any comments on that one?

JEFFREY NEUMAN:

So from the registrar viewpoint, there should never be an SLA that’s greater than the legacy. There’s just no rationale for any SLA that’s greater than the SLA that currently exists regardless of what ICANN believe is the reason why that higher SLA exists. They can create reasons now, they can do all sorts of things, but even under their own rationale, the registrars can’t and won’t and shouldn’t have to agree anything better than the 4000.

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RICK WILHELM:

Got it. Thank you very much, Jeff. Anyone else have any thoughts? Anyone else have any thoughts about the concept of 4000 as a next stop on the negotiating path? Okay, so that's an interesting thing to contemplate. I'm seeing neither agreement nor disagreement on that one. So that'd be a good thing to contemplate because we'll need to come to some concept of strategy on that one.

I think that that gets us to the thing that interestingly, if you note here, Karla did not ask about, although she talked about the objective criteria, number one to establish your retirement date, she didn't talk about a proposal to what that might be. Obviously for us, we agree shorter is better. However, we are willing to trade short-term pain for long-term gain, in Catherine's words.

I think that kind of brings us around the horn to summarize this stuff here. I think we've got pretty good agreement on a couple of things or at least on one thing that on searchability, we don't really have consensus. Well, any consensus we have is an entirely uncomfortable consensus about ICANN's positions because we're really uncomfortable where I think we feel like we're being jammed. Maybe that's a good way to put it on that front. Then on the emergency thresholds, I think we're good. On the RDAP profile, we think that it's an important topic, it deserves further discussion, separate it out. On the SLAs, we want to really keep a focus on that one as a priority. And on the WHOIS Sunset, the objective criteria be the calendar and we're willing to basically ride it out I think if we need to because we're willing to accept short-term pain for long-term gain, the so called "Merdinger doctrine," if we can dub it as such.

CATHERINE MERDINGER: My dad is going to be so mad that I got a doctrine and he didn't.

RICK WILHELM: Well, there you go. Anytime you can make dad mad is never a bad day. I, for one, am glad to be able to contribute to that. There we go.

Let me see. Does anybody else have any other comments along anything? We're a little bit over Sam's 5-10 goal but only by a couple of minutes. Anybody else have any comments or concerns or thoughts as we look to wrap up here? Oh my.

SUE SCHULER: Just that one that

RICK WILHELM: That is legend.

GRAEME BUNTON: Also I need a new headshot from whatever that is. That's really something special. Thank you.

SUE SCHUER: Sorry. I didn't take the time to really Photoshop it well.

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RICK WILHELM: That is amazing. I'm speechless. I'm oddly prone to break into a song for some reason. On that note, Sue, you want to take us out?

SUE SCHULER: Thanks. Andrea, you can end the recording.

**[END OF TRANSCRIPTION]**