
DONNA AUSTIN:

Welcome, everybody, for taking some time out to come and have a chat about the searchability of the RA amendment discussion. As most of you are probably aware, ICANN has requested that we pause our discussions until the end of September.

So, given searchability is something that we think I going to be hard to turn ICANN around on and we've only got a few registries participating in the RA amendment process itself, we thought it was worthwhile having a conversation with others that are interested and certainly those that have the searchability for WHOIS requirement in their contract now, just to walk through ICANN's position, where we've been, and then get some more input from people about where they'd like us to hold the line, I suppose.

I think we had some input from Matt and Kurt, and my assessment of reading both is we've been over that ground before with ICANN, so what you're raising isn't inconsistent with conversations we've had with ICANN so far. But where I'd like to get to today is an understanding of how we feel about ICANN's position and also, in that context, what's our position.

But also I want to have a bit of a conversation about the RSEP issue. One of the collateral damages, if you like, of ICANN insisting on having an RDAP searchability function is that we may see a number of RSEPs. As Matt pointed out in his e-mail—and certainly we've had this discussion amongst the negotiating team—we're going to have a problem if that's the route we take

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because, no matter which way you look at it, the optics aren't going to be terrific.

With that as background, [I'll just get stuck in the work.] If there's any questions along the way, just let me know.

Sue, I'm trying to change the slide that you're in control of. Next slide, please. This is just the language out of the registry agreement as it relates to searchable WHOIS. So anybody has this as an option in their registry agreement I'm sure is already familiar with it.

Next slide, please, Sue. Where ICANN started in the discussions—I'd say their starting position was from November last year—is that update [to] Section 1.10 Searchability to extend the requirements where applicable to RDAP. The sense was, if a registry operator is required by its registry agreements [to] approve services to offer searchability capabilities on WHOIS, registry operators should also be required to offer searchability capabilities on RDAP.

So we've had a lot of conversations since then, and the most recent position, which I'm going to say was May—I don't have the date with me—is that ICANN proposes that, for registries that currently offer searchability in their TLD registry agreement, they must implement RDAP searchability within 180 days following the date when the technical standard is available. Further considerations to be considered is what technical standards should be implemented—e.g., what version—and a commitment from the technical community from when the technical standard is available.

So what we're talking about in terms of that technical standard is that, at one point, ICANN had identified an RFC. So, once that process had finished its various iterations and became a technical standard, that is the one that they would want registry operators to adopt. But the conversation we had around the technical standard is that—Jim, I'm sure you could help me out here—that technical standard is not going anywhere within the IETF. It had some early momentum, but it seems to be that that momentum isn't continuing to the extent that we think there's going to be a technical standard that comes out any time soon.

Jim, I'm not sure whether you wanted to add anything to that.

JIM GALVIN:

Thanks, Donna. No, that's pretty much the story at the moment. But I don't even think that that's really the issue here. We need to focus on whether or not we're willing to take the requirement of 180 days from a technical standard. That process can take whatever it wants and it'll be what it's going to be. It's just an observation that it's slow-moving and not currently having any traction at the moment. Thanks.

DONNA AUSTIN:

Thanks, Jim. Just one comment from my perspective is that ICANN has moved quite a bit, even though they still want a requirement in the registry agreement. They have moved somewhat in terms of what that requirement would look like.

Rick, go ahead.

RICK WILHELM: Thanks, Donna. Just adding on to what Jim said but further also, it's not necessarily clear what such a standard might be, what it might entail, and it's very unclear what that could eventually end up being. It could be a lot. It could be a little. There are also concerns in the IETF about possible privacy impacts for searchability.

Furthermore, it's also important to recall that, in the IETF, that's not just gTLDs that are in there. There are also ccTLDs, which play an active role in there. Indeed, right now the author of the drafts that're there, who's a very solid technical contributor that Jim and I and others know very well, operates in a ccTLD context, and he acknowledges that his context is very different than gTLDs. So that's an important thing to realize: we don't know exactly what that standard may entail or scope when it comes out. Thank you.

DONNA AUSTIN: Thanks, Rick. Important point. The other piece is around the RSEP. So I think we'll come back to that. We'll just focus on the searchability requirement in the registry agreement, but we'll come back to the RSEP.

Jeff, go ahead.

JEFF NEUMAN: Thank. This, I guess, question is more for Rick and Jim. On the searchability standard that the IETF is working on, I thought that

that goes well above and beyond just the searchability that's referred to in Section 1.10 that's up on the screen (or the language was up on the screen before) because what I never fully understood is, if we get ICANN to run the "web-based interface" for this, how does searchability even then relate to what they're asking us to do? It's confusing when you think about it because 1.10 requires to offer "searchability on the web-based directory service." We're trying to get ICANN to do the web-based directory service. They'll offer partial match at least on the following fields. There's only a limited ... whatever fields they have there. Then there's exact search. There's a couple other criteria. So to what extent does the standard that's being worked on go above and beyond this? Or how are they even related?

JIM GALVIN: I'll guess I'll jump in and respond.

DONNA AUSTIN: Yeah. Go ahead, Jim.

JIM GALVIN: Thanks, Donna. I think what's important, Jeff, is to understand that there are issues with the specification here. Donna has got some later slides that are going to get to some of the differences between WHOIS and RDAP and searchability. But even if ICANN has the front end, the reality is they're still going to have to pass that partial query on to the registry or registrar. So you have to respond to the search request and provide the data to ICANN in order to put that out. ICANN's not going to have the data to

search, so they have to pass the query on us in order to do the job. So we still have to implement searchability.

The problem with the searchability requirements here is that these are all ambiguous vague, and incomplete. You'll see some of those details later. Donna is going to get to that.

DONNA AUSTIN:

Thanks, Jim. Sue, can we move forward to the next one? Thanks. In terms of our starting position, which, if you [think, ICANN's starting position and our starting position and ICANN's current position and our current position ...] Our initial response was that registries and registrars may optionally add it when an acceptable technical standard becomes available. So it would still be an optional feature rather than a mandatory one. So that was our opening statement.

In our most recent position, we talked about that we don't agree that registry operators who agreed to searchability for legacy WHOIS should be required to implement searchability for RDAP or registry operators who require to implement RDAP in accordance with the agreed RDAP profile, which currently has no functionality comparable to the searchability of the WHOIS legacy service. So how can you implement something that doesn't exist? And, as Rick was pointing out, we don't know what the service is going to look like or the additional requirements to a registry operator to implement those.

This next part is about—Jeff was the one that brought this in—the fact that registry operators that agree to implement searchability

for legacy WHOIS services cannot be [read] to imply that registry operators have de facto agreed to implement searchability in RDAP. So goes a little bit through the practical and legal reasons why you can't just assume that, because we agreed to do it in one circumstance, that circumstance is the same with RDAP and therefore we should carry that over.

So that is our position.

Jeff says it's technically not our starting position. It was our first response to them. Well, it was the first time, I think, we put something on paper, so that's why I've phrased it as "starting position."

Next slide, please, Sue. Matt and Kurt, I know you've both provided input to this, so I don't know whether you wanted to speak to your input that you provided on the list. Matt, go ahead.

MATT CROSSMAN:

Hey, everyone. I think, hearing the discussion we've already had, it sounds like you all touched on a lot of these points before. But there were three things that jumped out at me as I was reading through the proposals. The first is this point that searchable RDAP really isn't the same thing as searchable WHOIS and that we shouldn't equate the two services. It sounds like Jeff has articulated really well why agreement to one shouldn't be considered agreement to the other. Also, Kurt's e-mail did a really good job about getting into the specific details of why that is, so I'll let him speak to that. And also this point that searchable RDAP is currently undefined. It sounds like that has also been raised also

with ICANN, but it seems very strange that we would be asked to agree to something that remains undefined. That makes it really difficult as a business to assess risk, assess cost, and make an informed decision about implementation when something isn't defined yet. So we're agreeing that we must implement something before we can really weigh what that thing is and what it's going to take to get that into place.

The last thing is this RSEP idea. Obviously, it's a solution to this problem—to go through the RSEP process to remove searchability—but I have real concerns about the optics or PR around registries filing RSEPs to try to remove this functionality. I don't think that the community at large (LEAs specifically) are going to understand our nuanced position about why we're doing this from a contractual perspective. I anticipate we would get a lot of blowback on this, and that blowback is going to flow to us and not ICANN.

So those are the three things that jumped out at me. Again, it sounds like these have been well-covered. I also think Kurt got into a lot of great detail and articulated a lot of the specifics on some of these problems in his e-mail as well.

DONNA AUSTIN:

Thanks, Matt. Kurt, did you want to talk too?

KURT PRITZ:

Yeah. Everybody has made these points. I think, when we as a registry applicant decided to accept searchable WHOIS, we went through some sort of decision. We got an extra point in the

evaluation, but is it going to cost us a lot? Are there privacy concerns or privacy law concerns? Is it a product that might be attractive or not attractive to our registrant customer base? Is it really well-defined? Typical criteria whenever you're making any business decision. In searchable RDAP, all these things have changed. It's more expensive to operate. There might be privacy law considerations. The reverse lookup nature might put off some registrants. It's not well-defined yet. So holding to this is holding us to a bargain we did not make. We made this other bargain for this product, and now this is a different product.

So I just wanted to highlight a decision matrix somebody goes to when they make a business decision and say we get to go through this decision matrix again before we decide whether or not to accept this.

The first point I made is just a word argument, but maybe we should stop calling it searchable RDAP and call it RDAP reverse search or what other technical people are calling this, which is a different name. It changes the nature of the discussion. So, to the extent that anybody believes in those nomenclatures positions as being effective, I suggested that. Thanks, Donna.

DONNA AUSTIN:

Thanks, Kurt. I think the conversation around a business decision [and] that process that a business would go through ... I don't really think that's a conversation we've had, so it's probably another point that we can pull in. We certainly had lots of conversations about that we're not talking oranges to oranges here. This is oranges to apples. So we certainly have had those

conversations around nomenclature, which we'll get to in the next slide, because Jim has pulled out a little bit of that. I think there is confusion around what we're talking about at times, so, to the extent that we can get that really clear, I think it would be helpful.

Quoc and then Marc.

QUOC PHAM:

Thanks, Donna. I very much agree with this slide here. What I'd like to draw to attention to, if we step back a couple of steps and look at this as a holistic point of view, is that RDAP and WHOIS' purpose or intent is to deliver a mechanism for public Internet users to look up domain name registration. So that's their purpose. The regular user with a browser open or maybe a coder that might want to script something ... So that is the intent of RDAP or WHOIS: to grant that ability.

The next level down is talking about the technology itself, WHOIS being its own protocol for a little while[,] this introduction of the term "searchable WHOIS" back in 2012 or whenever that came up, maybe a little bit earlier. So that adds a little bit more flavor to it. It defines a web service that allows you to do some core things and look up domain names based on criteria that matches.

But then RDAP comes along and it's definitely not something that's comparable, mainly because the existence of RDAPs in API. I think that needs to be made very clear: that RDAP is in API and that the user of web WHOIS or the user searchable WHOIS, which is a web-defined application, is not going to have the same experience using RDAP. Let's say we build some very complex

searching mechanisms in RDAP. If you had that to the user of a searchable WHOIS web application, it won't translate because they're used to using a web browser and clicking on buttons and filling out forms to now looking at a request of a HTTP and in HTTPS and then receiving the response back in JSON objects and then looking at that and going, "Well, how do I make sense of this?"

So I think that really needs to be made very clear: we're talking about two very different protocols here and two very different technology stacks. Their primary intent is to grant the end user the ability to look up domain name registrations. There's some advanced conversations to be had, especially with RDAP. Yeah, I agree: searchable RDAP is definitely not the right term in my opinion. It confused the matter, I think, much more than it should. RDAP is the protocol, and within that protocol, with what Jim was talking about in the IETF group, what additional features can we add to it to enhance its usability?

So that's my view on it: the two can't be compared. It's unfair to do so.

DONNA AUSTIN: Unmuted. Thanks, Quoc. Marc, go ahead.

MARC ANDERSON: Thanks, Donna. Can you hear me okay?

DONNA AUSTIN: Yeah.

MARC ANDERSON: Great. Sue, can you go back a couple slides? I think it's Slide 3 where you have the contract language. Thanks. I want to make a couple points here. First, great points by everybody and, I think, well-spoken. It sounds like generally we're on the same page as registries, so that's, I think, good news.

I do want to expand a little bit on something Kurt raised a little bit. He talked about the privacy concerns. I may be speaking with some recent scars from EPDP, but the EPDP never addressed searchable WHOIS when it was looking at its work, particularly in Phase 1, where we had the task of looking at the temp spec and looking at our contracts and figuring out how to get updates out that would enable us to comply with our contracts and stay on the right side of the law, specifically GDPR.

The challenge is, of course, that searchable WHOIS adds additional power to the requester, which makes it even more difficult to comply with GDPR. Kurt was talking about the business proposition when we agreed to support searchable WHOIS. That predated GDPR. I think that's something also that needs to be taken into account. I think, from my perspective at least, that, on the consideration for whether I want to support searchable WHOIS or not, certainly, GDPR and the existence of privacy laws factor into that.

Now, there is a little bit of difference looking at the Exhibit A language on searchable WHOIS. The last sentence there says,

“Registry operators must issue credentials exclusively to eligible users at institutions that supply sufficient proof of their legitimate interest in this feature.” That’s pretty loose language, but it does give us the ability to restrict access to searchable WHOIS. So that language does help in my view. But not for nothing it’s worth keeping in mind that searchable WHOIS was not in any way considered or taken into account or discussed by the EPDP.

The other thing I want to point out—this is also a little bit in response to Kurt’s e-mail, where he was talking about his understanding of searchable WHOIS—is the fourth bullet point over in the left-hand column. The real kicker, in my view, on searchables is that fourth bullet, where the registry operator will offer Boolean search capabilities. This is where “searchable” becomes a tool that we need to be real concerned about, particularly when considering privacy concerns and our ability to comply with law: those Boolean searchability capabilities and/or not. This is where requesters can submit requests and say, “Okay. Show me all the domains registered by John Smith,” or “Show me all the domains with this criteria and this criteria (or this criteria or this criteria).” You could say, “Show me all the domains with registrant John Smith and registered in the last 30 days,” for example. This is the capability; that fourth bullet point there; those Boolean search capabilities. Those are the ones that really put searchable on steroids, so to speak, and those are the reverse lookup capabilities that we need to be concerned about. It gives me pause certainly from an ability to apply with law.

DONNA AUSTIN:

Thanks, Marc. Jeff?

JEFF NEUMAN:

Thanks. Really good points raised by Quoc, Jim, Marc—everyone—Rick and Kurt—everyone. I think we need to bring it down to the level unfortunately which ICANN is taking this whole thing. They have a very myopic, singularly focused view of this issue. It doesn't matter to them—we've brought it up many times—that the protocols are different; it's not the same thing; it's different types of users. Jim and Rick have been through every single one of these arguments. The problem is that ICANN comes at this from, "Look, I want to be able to tell the community that everything that applied to legacy WHOIS applies to RDAP and that there's no difference." That's the singular focus that they have. It's all political. It's all optics. They don't care about the technical differences. It's irrelevant to them. Frankly, we've never been successful at getting someone on the phone from their side that has any technical knowledge that would even care about this type of thing. That's number one.

Number two is I would also encourage us not to tackle this from the privacy side because nothing in these provisions trumps any of the consensus policies or, for that matter, trumps the requirement in our agreement that allows us to apply with applicable law. So this is meant purely to look at the technical, that we provide essentially the plumbing to be able to do it, but not that it's actually done. That is determined by a policy. That's been recognized since we started these negotiations way back when.

So I completely agree with Marc and others that raised the privacy aspects of this, but we agreed at the beginning of these discussions to ignore those and leave it to the policy groups to

discuss those issues. This is really about providing the capability if it passed the policy muster and gets through all of the appropriate processes.

So I think we need to continue with that approach and not bring policy or privacy into these discussions, other than to say, if we did agree to something with the plumbing, “Look, we’re actually not going to flip the switch until the policy groups look at this, but we’ll have the capabilities in there.” So we need to be really careful as to how we approach this because, if we start getting into privacy, then it makes us look 100 times worse on the optics levels because now it looks like we’re bringing policy discussions into the contract negotiations, which we don’t ever want to do because we don’t want others outside of ICANN and registries/registrars in these discussions at all. So I would strongly caution us not to go down the privacy realm. I think our arguments are good enough on the technical/legal realm. I think we really need to stick there.

Also, as much as I appreciate, Quoc, the technical differences and the differences and the difference of users, we’ve been through that before. We’ve raised it many times. It doesn’t have any effect on ICANN’s position. Thanks.

DONNA AUSTIN:

Thanks, Jeff. I don’t disagree that ICANN is looking at this from a user or optics perspective. I don’t disagree with you at all. But what we haven’t had—that’s why we’re having this discussion today—is input from registry operators that aren’t part of the negotiating team specifically to talk about the searchability issue

because what I was hoping to get out of this—I'm pretty sure that's what we're going to get out of this—is that we will be in a really strong position when we go back to ICANN on this because we can say that we've put this through the full stakeholder group and we're not moving on this—not in those terms; we're going to have to broaden it and make it a solid statement or position. But I'm taking a lot out of this conversation that we're having here because it's not just the three or four of us that are in those conversations with ICANN. This is a bigger issue across the full SG. So we will have more weight when we go back into those discussions when we say, "Well, this isn't acceptable." So I'm pretty confident we're going to get to that point.

Quoc and then Marc.

QUOC PHAM:

Oops. Sorry. Just trying to figure out how to click/use my mouse. There we go. I think I've just figured it out now.

Thanks for the comments, Jeff. It sounds like I've brought up some past traumas. I apologize. And I'm sorry to hear that. It's quite disappointing to here that. That's the path that it has led to, or the outcome.

Just quickly, to put it out there, if we're talking about optics here, RFC 7482, or whatever the number is—yes, 7482—which is the RFC for RDAP's query format, does offer—this is something that all RDAP providers have to comply with as well—some fairly basic search standards, like, for example, looking up the domain names by their, perhaps, wild card domain name string or something.

Just putting out there: is there an option to present to ICANN with what's inside RFC 7482 and say, "Look, maybe this is something we can agree to meet in the middle with"? Because it does contain some searchability query definitions in there.

DONNA AUSTIN: Sorry. Mute issues. Marc and then Jim.

MARC ANDERSON: Thanks, Donna. Jeff, great points. You were very practical there. You made a lot of very practical points. I think you're spot-on. I agree with your, "Well, privacy concerns me, and I think it's good for us to talk about it." I think you're right. That's not a position we can take outside of this conversation. So I agree with all your points across the board.

Building maybe a little bit on what you said, I think ICANN's position of trying to recreate existing legacy WHOIS using RDAP is the wrong approach. I think maybe that is an avenue we can lean on a little bit.

Before I worked in the registry business, I did software consulting, and I would help companies implement new software packages. It's a very common thing that I observed: people would buy a new software package because it was better than their old software package—they would buy it for the improved capabilities of better features—but then they would go about trying to implement it exactly like their old one. I would tell them, "If you want this new tool to work exactly like your old tool, just use your old tool." I don't know if that will resonate with ICANN at all, but if they want RDAP

to look and act and operate exactly like the existing legacy WHOIS and searchable WHOIS, you know what? We can make this a lot easier and keep doing legacy WHOIS and searchable WHOIS.

But I think the point needs to be made that, look, the technical community went out and developed a new replacement protocol that's different and better than this old legacy WHOIS, and we need to use that existing protocol as it was intended and recognize the fact that, as others have said, making an apples-to-apples lateral move? This is an apples-to-orange. We're getting rid of this old protocol that is no longer sufficient to meet the needs to the broader community and replacing it with something new and entirely different. We need to recognize that and not just try and recreate the existing legacy scenario.

Now, this is going back a couple years now. When ICANN first created their profile that they tried to make us implement—their RDAP profile—there were a number of concerns that we had. We pushed back successfully on ICANN on that. But I remember well. The first time I read that profile, I realized this is exactly what ICANN has done: gone out and created a profile which recreates WHOIS in RDAP, which completely negates the purpose and the abilities that we have in creating this new RDAP profile.

I don't know if that'll resonate with ICANN. I don't know if that'll help at all, but that's my two cents on that.

DONNA AUSTIN:

Thanks, Marc. I think one of the other parts of the conversation that we're having is around the sunseting and WHOIS, right? So, as registry operators, we're required to implement twelve months ago now. So we've been using RDAP for twelve months, but the end user—the person who wants the data—is not using RDAP. They're still using WHOIS. So ICANN is still looking for that long wind-down of WHOIS to get ready for RDAP. Why can't ... Jim is our number-one proponent. Let's just turn off WHOIS because that will force the issue. But that's the other conversation we're having as well: ICANN, while they were keen for us to implement RDAP, really hasn't gone that extra step and said to those that are looking for the information, "RDAP is now available. Start using it. We don't want to scare the horses, so you just keep using WHOIS, and we'll find a path for you to have a seamless transition to RDAP." That's what part of this conversation has been around as well in the amendment process.

Jim and then Rick.

JIM GALVIN:

Thanks, Donna. Donna, if you don't mind, I'd like to ask, if you go to the next slide or the last slide—down to Slide 7 it is; the one that I added—I want to give a quick reply to Quoc and then make a comment about Matt Crossman's comments from the previous slide and make a general comment of everything I've been hearing here today.

The quick response to Quoc about the baseline in RDAP—this is a little bit technical but I know the Quoc is going to get all this—is that IDNs really are an issue. They're not completely defined and

not well-defined in their usage. There are some hints about that in the RDAP standard, but I'm just certain you'll appreciate the fact that what a registry has to do on the backend to implement partial search in the face of IDNs and joining characters and whether it's an A-label or a U-label and what all that means is not well-defined. That's an issue. It means that search doesn't necessarily work the same anywhere. That's the problem with WHOIS search.

More generally, search is not well-defined. Everyone agrees with that up to this point. It's all the discussion that we've had. What's specified in 1.10 is ambiguous and incomplete, especially with respect to RDAP, and there are issues in the way it's defined in RDAP. It also is just ambiguous and incomplete. We really did not have significant interoperability testing and usage of this when the standard was developed. So there's a lot of technical work to be done here separate from the policy side.

So bringing this back to this discussion here, I like Matt Crossman's comments. I think Matt in his comments very nicely summarized the business and contractual issues that we've all been focused on and bringing up here. His Point 1 about the qualitative differences between WHOIS and RDAP is on target. My slide here—I put all these in here—is my bullet-point summary of Kurt's comments and other discussions that we've had about what are the issues with search? What are the technical issues? And Matt summarized it ideally. I think we're coming around to a place where we just have to focus on that argument that makes there in Item 1 about that there are qualitatively different things. You just don't map them one to the other. I'm hearing that most people seem to agree with that. Donna, that's up to you to decide

there about how all that plays out. Maybe we just have to take that stand, and that's what we go on.

The other thing about Matt's Item 2 is that searchable RDAP is undefined. I tried to summarize ... Kurt laid out some of the details. There's even more details than just what Kurt said and what I've summarized here, but I've tried to summarize here some of the key points about search and what makes it not well-defined. It's important to keep in mind that what we have in the WHOIS world today is whatever anybody wanted to do. We have a lot of proprietary solutions out there. That's the bottom line. There's no consistency, not interoperability. That's important. RDAP gives us the ability to fix all of that, and it's a much better user experience down the road. It really is the reason I support—Donna just called out the idea ... I've said all along, "Let's just turn off WHOIS. I don't even know why it's running. Turn it off. First of all, people aren't getting what they used to get from it anyway, so I don't know why they care. Frankly, ICANN could put up a WHOIS front end that maps to RDAP queries in the backend. Let them provide that to the community if that's what they want. A trivial thing to do." People need to move to RDAP, and then they'll get all of the rest of this best user experience. We just need to force it, and ICANN needs to force it, too. There just needs to be a way to make all that happen.

I hope all that helps, and I hope I answered Quoc there and pointed us to the right things. Thanks.

DONNA AUSTIN: Thanks, Jim. Rick?

RICK WILHELM: Thank you, Donna. I wanted to draw some commonality in a couple of things and also highlight a couple of things that both Marc and Donna said.

Marc commented that ICANN wants RDAP to work just like WHOIS, and then Donna also commented about ICANN wanting there to be a seamless transition. We had spoken out in disagreement of this concept of WHOIS being just like RDAP or RDAP just like WHOIS and spoken out against the concept of a seamless transition. I don't recall which face-to-face ICANN meeting it was, but I know everyone was sitting around the table and what room we were in. I think it was one where we were late in the day and somebody brought beers, but I don't recall exactly which meeting that was. I'm not saying whether or not that narrows it down. But during that meeting, Russ was saying we want a seamless transition. I stepped in rather firmly and said, "Russ, it's not going to be a seamless transition. They are two different things." He—I won't say "begrudgingly"—agreed, but they're still hung up on this notion of a seamless transition, and I think that's reflected in the comments that Jeff was making earlier about that they wanted to be just like one or the other. As Jim was saying there, they are qualitatively different. This situation that we have with search is a specific case of the more general case of them wanting RDAP to be just like WHOIS. So maybe that might present ground for us to be pushing on around this.

So that's just a quick comment in and around that area: this is not a really new or novel position for ICANN to be taking. Thank you.

DONNA AUSTIN:

Thanks, Rick. I really appreciate that there's quite a few people on the call, and I assume that we're all pretty much on the same page about that RDAP is certainly a different service. When you introduce a new service, there are business considerations that you need to take into account, and you certainly can't do that until such time that it's a known service. I think that's the new argument that we can come back to ICANN with. I don't recall that we've used that before, but we've had so many conversations around it that maybe we did.

I think there's some other more nuanced things that have come up here that I think we can bring back into the conversation with ICANN when we meet with them again. So this has been really helpful from my perspective. I'll take the time to go back through the recording just to see if I can pick up on some of the key items and the things that I think we can use and also the input from that.

I do want to talk about the RSEP issue and just get a sense from folks on, if ICANN insists that there be a matching requirements in the registry agreement, if people will start to use RSEPs to move away from their current WHOIS searchable feature, or are we going to wait it out in some way? So I would like to have a conversation around that.

Jeff, go ahead.

JEFF NEUMAN:

Just before that, real quick—Jim, as Jim was speaking, made me think about this—Jim, while you were away, I did an awful job

trying to explain to the registries as to why it was such a big issue for each of us to build a user interface to RDAP and why it was something we really wanted to insist on ICANN doing. Your recent comments just now on the IDN aspects and the other aspects seems to click because I remember you and I had a long conversation as to why this was a big deal. I did not do a great job in explaining that to the registries and was hoping at some point—not now because it's not the issue—that you could help because you're the one who convinced me as to why it was such a big deal. Thanks.

DONNA AUSTIN: Go ahead, Marc.

MARC ANDERSON: Thanks, Donna. On the RSEP issue, Matt made some good points in his e-mail. Once again, great e-mail, Matt. Thank you. I just want to make sure I understand correctly. I did look at the RSEP page, and there have been a handful of TLDs that have removed the searchable capabilities. But, from my quick read, they're all either brand TLDs or TLDs that haven't launched yet or both. So ICANN has given that as a possible path forward, but they've not committed to just agreeing to those RSEPs in all cases and that, if you are an already-launched/distributed TLD, they might not consider granting that RSEP. Do I understand that correctly? Is that the challenge?

DONNA AUSTIN: Yeah. They acknowledge that one of the consequences of this is that, to get ahead of it, the registry operators will start to submit RSEPs to get rid of the searchable WHOIS feature that they currently have. So they acknowledge that that may happen, but they haven't said that they will agree to the RSEPs. So we could get in a situation that we had with our two-characters where we just have a bunch of people submitting the RSEPs but they're put on hold until eternity. So, yeah, I think you've got it right, Marc.

Jeff, go ahead.

JEFF NEUMAN: Thanks. That, Marc, has been my biggest concern because, when we first brought it up—I don't know if it was Maxim that said, "Well, we'll just file an RSEP to remove it"—I think ICANN looked at Maxim when he said it because they had approved it for other ones, and that's when they got very defensive and said, "No, we've only approved it for brands or limited TLDs, not for open ones." So, yeah, my biggest fear is that they say, "Well, you guys can always file an RSEP. We signed the amendment," and then all of a sudden start submitting RSEPs and they put it out for public comment. There's great outcry from the community because of course they're not going to understand what searchability means, especially when ICANN doesn't understand what searchability means. They're going to interpret it as something that it's not. There's going to be such big outcry, and ICANN's going to put a halt and say, "Well, the community doesn't want us to do it, so we can't approve it unless it goes through a PDP," or something like that. I think they know in the back of their minds that that is an option for them.

So I asked them point-blank during one of our sessions, “Does this mean you’ll approve all those RSEP requests?” and all they were able to say was, “Well, it means that it’ll go through the RSEP process.” That was their statement. So absolutely I think not only would this make us look horrible from a PR perspective but there’s no guarantee or anything like that that they would even approval the removal.

DONNA AUSTIN:

Thanks, Jeff. Kurt just raised something interesting in chat about a backend provider signaling that it plans not to provide searchable RDAP. It might trigger multiple RSEPs. This is an interesting concept. We’ve talked about this because this is a registry agreement. But what if—this is a possibility because I know that ARI didn’t provide searchable WHOIS capability but Neustar did; when we merged ... I don’t think we’ve overcome that, Quoc. I think we still had some that had searchable WHOIS and some that didn’t, but—

QUOC PHAM:

Yeah, that’s right. [inaudible]

DONNA AUSTIN:

Yeah. So ICANN imposes this on the registry operator, but what if the RSP just doesn’t have the capability? Then what happens? So I don’t think we’ve had that conversation amongst us, but that’s a possible reality too because, as a backend, the GoDaddy registry would have to go through a process of deciding whether it’s worth it for us to implement this feature based on the developments

costs and whether we would need to recoup that. So that's a different conversation that we haven't had.

Jeff, Marc, and Maxim. We're getting pretty close to time.

JEFF NEUMAN:

Donna, I think that, for now, we shouldn't have that discussion. I would love to get some view of some anti-trust counsel before we have discussions about, as a group, the implications of that issue. I don't want us to get into areas that we should not be getting into, like fees and other things, which invariably this could lead to. So it would help for us to get some anti-trust counsel on what we can and can't discuss as a group on that.

DONNA AUSTIN:

Okay. Fair point, Jeff. I'll think about that.

Marc and then Maxim.

MARC ANDERSON:

Thanks, Donna. Thanks for your points, Jeff. I think I agree on the optics points that have already been made. I don't have anything new to add there. As I understand it, ICANN could only reject the RSEP if they believe or can show that removing "searchable capabilities prevent a security or a stability issue." Maybe I'm just musing out loud here, but it would be interesting to hear ICANN try and make the point or try to make the case of why they would reject an RSEP to remove searchable capabilities.

But, that said, I think the optics points, as others have raised, are very valid and worth considering.

DONNA AUSTIN:

Thanks, Marc. ICANN could use it to make a point, right? They could withhold approval until maybe other issues are resolved. My understanding of the RSEP process is that it has been streamlined, so they shouldn't be able to do that as readily as they could before. But that's not to say that they wouldn't. So I guess we have to go on trust here that, if you submit an RSEP in good faith, you should expect that it's going go through the normal process. But that may not always be the path that they take.

Maxim, go ahead.

MAXIM ALZOBA:

I have a few ideas about it. The first: if you might be aware, the process of certification of backend—I forget the three-letter thing in ICANN for that—is done by Swedish guys at the moment, and they do require searchable WHOIS as one of the stages. It's the first thing because, if a registry jumps from one backend to another, most probably they will have to either have recent certification there or they will have to apply to receive the same services as the previous backed. That's why I'm not sure that total removal of RSEP is feasible in the case where the backend is the registry who provides services to other registries—to many of them—because it will affect all the customers.

But the most strong voice is law enforcement. So, if you limit the use of such service, even the access to the page where it [can be

tested] only to the local law enforcement from your jurisdiction, they can do nothing about it. In case they require it, you can give them a dummy interface to a dummy database. Yes, it will require some development, but it's nothing which could be done in weeks. So it will make voices of those who yell, "Oh, it's the removal of safety," etc., etc. ... No. Safety is in the hands of law enforcement, so everything is going to be fine. Thanks.

DONNA AUSTIN:

Thanks, Maxim. So we are at time. I know that people have had to drop off, so we'll call it here. I really do appreciate that people got on the call today. I think it's been a really good discussion. I think it's going to enhance our position when we go back into conversations with ICANN. Who knows? Maybe when we get that back to ICANN, they've decided to take this off the table. But highly unlikely.

So I'll certainly take the time to go back and review this call and see what we can pull out in terms of our position moving forward. We've got time to bring that back to the stakeholder group before we get back into the discussions with ICANN.

So thanks, everybody, for your time. I really appreciate it. We can end the call now, Sue.

SUE SCHULER:

Thanks, Donna. Terri, please stop the recording.

[END OF TRANSCRIPTION]