
SUE SCHULER: Perfect. Thanks. Okay, Donna.

DONNA AUSTIN: Thanks, Sue. Welcome, everybody, to the RA/RAA Amendment Discussion Group call of the 18th of August 2020. This is a call which Russ, Karla, and Jennifer are attending.

Karla and Russ, I think what we might do is just hand over to you and open up the discussion about the request to pause this work until the 29th of September. I think I can say to speak for everybody here that it really has taken us by surprise, so we'd just like to understand the rationale behind the request. Thanks.

RUSS WEINSTEIN: Sure. No problem. Thanks, Donna. This is Russ from ICANN. I think this is just us going through the process of going through organizational change and making sure that we're communicating internally, clearly, and getting everything sorted internally so that we can effectively negotiate with all of you. There's a few things that we just needed to take back and make sure we're aligned on internally so that we have a clear mandate to negotiate. There's no intent not to negotiate. We would like to go as fast as we can. We don't want to waste people's time. I know it's a big commitment of time to come to these meetings and do the work outside of these meetings in between, and we think we made some good progress along the way. It's pretty clear I think that our next steps are, how do we start compromising and closing the gaps that we've identified? To do that, I need to make sure that

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everyone internally that needs to be on board with this is, and it became apparent that we needed to do a little work on that front. I think this is, from our perspective, a brief pause not intended to totally upset the apple cart or to throw this work to the side just to kind of clear the path so that we can get back to the table quickly and hopefully drive closure of these open items in a relatively expeditious manner.

DONNA AUSTIN:

Thanks, Russ. I'll open up the queue to anyone who's got questions for Russ and Karla. And just to speak personally I suppose, one of the concerns I have is that when we come back to this, is there a risk that you or Karla will no longer be involved? Because I'd see that – as they say, we're getting to the part where we want to start talking about compromises and how to move forward. So is there any chance that we would lose you and/or Karla out of this process?

RUSS WEINSTEIN:

No. I don't think that's the case at all. This is mostly just Karla and I making sure that we've got all the right people informed of what the issues are and make sure we're consistent with the overall – as we've talked about in the past, making sure that there's a coordinated transition from WHOIS to RDAP plan, and making sure that we have all those links internally close so that we can negotiate more expeditiously with you all. So, no personnel shifting around here or responsibility shifting internally.

DONNA AUSTIN: Does anyone else have any questions for Russ or Karla? Any concerns that you want to express at this point? Obviously, we haven't had the chance to talk amongst ourselves about this, Russ, because it only came through yesterday.

RUSS WEINSTEIN: Yeah. I do apologize for the late disclosure of that. Again, I can understand maybe some confusion or frustration over this, and for that we do apologize. I know it can feel like a long time also. I think some of it is also just kind of victim of the time of year. It's just been hard to get any alignment internally having people rotating through the summer, taking weeks' off here and there. That's part of the elongation of that six-ish week time period. I think we'll be able to get what we need and be able to get back to the table in the timeframe we described and be able to hopefully close it out in a relatively short order. At least the principle is that it'll be the whole round of the detailed redlining of the contract and stuff.

DONNA AUSTIN: Ashley?

ASHLEY HEINEMAN: Thanks. I think you answered some of my questions just now, but in terms of the September 29th date and making sure that our expectations are set realistically, are you fairly confident that that's a date we will keep or is there likeliness that this could get pushed back further? And then once we do restart things, what should our expectations be? It sounded like what you just said was that we

would be able to get to pretty much the next level of where we are at now as opposed to having to backtrack at all. But just some kind of confirmation on that just so we kind of know what we're getting ourselves into as we enter into some sort of pause. Thanks.

RUSS WEINSTEIN: Sure. Thanks, Ashley. Good questions. I think from a timing standpoint, that's our best estimate right now of the time we need. I'm trying to be conservative on those expectations. And then in terms of getting us back together, I think the work that we have in front of us, I don't think we'll look to go backwards. There's a few things in front of us that clearly it requires compromise and making sure we tackle those head-on when we get back to the table.

DONNA AUSTIN: Okay. Thanks, Russ. Any other questions for Russ or Karla? Jeff, go ahead.

JEFFREY NEUMAN: Thanks. Russ and Karla, when we get back together, are you going to provide the deliverable or is there going to be another conversation? Because I think the last thing we had asked you for was to see that that we thought that we were getting close enough to see some language contractually. Do you expect to have that when we get back together? Is that what you're taking time to do, to draft that out? I mean, yes, I know that there are some issues that we haven't decided on definitively but like things of how long to transition out WHOIS. We're at timeframe, you're another

timeframe, whatever that timeframe is it's the same legal language, you just insert a number. In order to move this forward, is there like a document you're working on?

RUSS WEINSTEIN:

That's a good question, Jeff. I think we can come back with more formal term sheet maybe, as you'd probably call it, more clear list of what the items are, and what we think we've already agreed to, and what we have remaining. And our starting to have the attorneys been up on our side of making sure they're getting up to speed on this and that they're recognizing the points in the contract that we need to change and that sort of thing. I think we can get into that quickly thereafter.

DONNA AUSTIN:

Russ, just a little bit on that last bit. Is there any risk here that as you go back and get people in the loop that any of the issues that we think we're close to agreement on, is there any risk that that's going to open up again? I mean, it has taken us 12 months to get to this point so we'd be pretty disappointed if we – I know your aim is to keep on the same track but if we move backwards, that's going to be a concern.

RUSS WEINSTEIN:

Yeah, I understand.

DONNA AUSTIN: So you're not concerned as you have these discussions internally that we'll go backwards?

RUSS WEINSTEIN: No. I don't foresee us going backwards or at least what I think is going backwards. I think the things we've agreed on to, so far pretty foundational. I think we're pretty close in terms of alignment. It's just internally to get closure I think on the remaining things is where we need to make sure we have good coverage that we're looking at the way it affects policy and Phase 2 coming, and just making sure we're closing all those loose ends before we push forward towards negotiation of agreement.

DONNA AUSTIN: Okay. I guess there's not a lot else to say, I suppose. I know that Karla's e-mail suggested that you wanted to talk about the possibility of continuing with the RDAP profile discussion and the changes to that. Again, we haven't had an opportunity to discuss that amongst ourselves so we'd be interested to hear from you. But one of the other things that maybe we should think about if there's anything that fits into a similar category that it would be worthwhile us continuing to have those conversations about. So if internally ICANN is working on a communication plan that is associated with that sunseting WHOIS. If that work is being done, is there an opportunity for us to see that, understand what you're working on? I'm just throwing it out there. As I said, we haven't had any discussions about this. [Inaudible] from my side for suggesting it but I think if we're going to talk about RDAP profile and whether we can progress that in the six weeks, maybe we

should think about if there's any other topics we can do likewise. Karla or Russ, did you want to talk about your thinking around the RDAP profile?

KARLA HAKANSSON: I can jump in, Russ, if you don't mind. The action items that I'd taken from the last call that we had was that the contracted parties were going to come back to us regarding the emergency transition. I think what we're going to see is if we could make some progress with the framework for the RDAP profile and then offer some feedback on the sunset of WHOIS. I don't know if you had the chance to meet as a group last week on any of these topics. If not, I don't think we have any additional input at this time as far as those three things. But I think it would be worthwhile if you had something else to say on those points. I think it would be great for us to be able to take that back as we align with our teams internally.

DONNA AUSTIN: Karla, we haven't progressed significantly and I think what we said on the last call with you is that the process for changing the RDAP profile is something that we put further down the list, it's not a priority. It's something that we could work on when we got those other things sorted so we weren't elevating it to some order of priority. We're certainly setting it at a lower level for us.

KARLA HAKANSSON: Okay.

DONNA AUSTIN: And – sorry, go.

KARLA HAKANSSON: I was just going to say if we put the RDAP profile at least down on the list then and any additional thoughts regarding the emergency transition or the timing that we discussed last week for the sunset of WHOIS?

DONNA AUSTIN: Karla, here's the problem we have. If we're going to put this negotiation on hold then it's on hold, right? So I don't think we're willing to give anything at this point until we know you're coming back with a letter [persuading] but I think that's the sense that I have of our team. Thanks.

Jeff, go ahead.

JEFFREY NEUMAN: Thanks. I totally agree with Donna, your last statement. I have a question. I'm a little confused as to the suggestion that the profile could be worked on over the next six weeks. My understanding was the profile was done for now and that we still need to wait for the EPDP IRT to finish its work, so I'm not sure what needs to be done. Sorry, I might be – Rick's got his hand raised. So maybe I just don't know. Thanks.

KARLA HAKANSSON: Rick, do you want to speak to the profile? Brian, I'm not trying to cut you off. I see that your hand is raised.

BRIAN KING: Sure. Rick, please.

RICK WILHELM: I'll be real quick. There isn't anything right now on the profile that needs to be done. Profile is stable until the EPDP Phase 1 policy is issued and then after that, changes to profile are expected to need to be made. But right now there's nothing pending on the profile. Thanks.

KARLA HAKANSSON: Just to be clear, there's no work that I think that we're suggesting that needs to be done to the profile itself. Once the recommendations come down and how does the profile get modified is what we had talked about in the last call, just to clarify that point. Brian, do you want to jump in?

BRIAN KING: Yes. Thanks. I just perceived the use of the word "term sheet". I think we were excited to be getting to a place where ICANN will be providing some contractual language and we'd like to avoid a situation where didn't create it in principle and then the lawyers we've been and take another bite at the apple, so to speak. So I think it will be reasonable for us to ask that with this additional time, what Org comes back with looks more like a contract

language or is contract language versus just a term sheet at this point will be useful. Thanks, Karla.

KARLA HAKANSSON: Thanks, Brian.

DONNA AUSTIN: Okay. Brian, I assume you don't have a follow-up with this. Thanks.

Okay. In terms of next steps, I guess, Russ and Karla, we'll be waiting on you to come back with the restart button.

RUSS WEINSTEIN: Yeah, Donna. I think that's right. I do think this profile one is one we should continue to make progress on and maybe not think about it in terms of we have a policy implementation coming that, as Rick said, will affect the way RDAP is implemented to comply with that policy. In the contract aspect, we've talked about and agreed that we want to have version clarity and certainty in the contract, and that we all agreed that the profile should be contractually binding and what is the right hand-off, so to speak, or the way the profile needs to be updated to keep pace with policy changes, which I'll remind everyone and you'll all notice, but the way we see it is consensus policy that's produced out of IRT work is essentially a binding contractual amendment that you don't have to sign. It changes the contract or adds requirements or modifies obligations.

So I think we see that coming and as I tried to explain in the last meeting, kind of see a more of a near term problem of we're fine with the profile as it currently stands for operation as it currently stands which is the in term policies, so to speak, which is, as most people know, a Temp Spec. But right on heels of that is Phase 1 and we want to give everyone as much time as we can to work on implementing RDAP in accordance with that Phase 1. So I think the way we see it and continue to see it is that ideally, the policy implementation process would include an updated profile that aligns with the requirements of that policy and that by producing at that same point in time, it's contractually binding just like the policy narrative itself.

That's our, I think, simplest view of it and cleanest view of it, and we certainly want to include the expertise of the working group that Rick has been leading that has so much expertise about RDAP and can help us develop those profiles and review them and make sure that they are in fact implementable and are applied to the policy as it was described. That's our perspective on it and if that can get agreed on in principle, I think there's very little contractual language that's needed to be developed because that is the policy implementation process. I think it's more of a procedural thing and just making sure we understand roles and responsibilities.

DONNA AUSTIN:

Thanks, Russ. We can go back and consider this in light of what you've just said. But as I said, we haven't had the chance to discuss it so it's something that we'll come back to you on. Jeff?

JEFFREY NEUMAN: I think because we're not completing these negotiations and we're putting it on hold, I think we do have an issue, right, Russ? Because I'm not sure when the EPDP IRT is going to complete their work. But technically and contractually, there is no such thing as a profile. Until we do this amendment to give a document that we now call the profile some legal status. So as Donna said, we need to take this back but I think not moving forward with these discussions is actually unintentionally putting a thorn in that in your understanding. But we'll talk about it internally to see what we can do. We're not done with this part yet but does anyone know when this EPDP IRT supposed to be done?

RUSS WEINSTEIN: I think there's still a lot of work left to be done on the EPDP Phase 1 implementation. They're making some good progress but there's also some pretty impactful issues and I think we have met several IRT members on this call here. There's a lot of work to be done in terms of assessing how other policies are impacted and how the contracts are impacted and things.

I hear you, Jeff. I'd again like to stress ICANN is not trying to walk away from these negotiations. We are suggesting a re-pause. In reality, that's three additional meetings. I understand the frustration and the feeling of we're going to lose momentum. I think in the grand scheme of things, these six-ish weeks or so is a bleep on the radar screen. What we were trying to do was not keep you on having meetings where we still have ... We do want to have meetings for the sake of having these. We know the time

it takes to put into these things and we're eager to complete these as well but there's a lot of work we need to do internally to get ready for that. That's the intention for the brief pause and it's not to derail the negotiations at all.

DONNA AUSTIN: Okay. Thanks, Russ. We hear you and I think we get it. We're disappointed, we're a little bit surprised, and maybe in 10 weeks' time we'll think the pause was a great idea because these will all be done. Let's see how it goes. I don't know if we have anything left from our side. Does anybody have any comments? Okay. I don't see anything. Ashley, did you have anything that you wanted to add?

ASHLEY HEINEMAN: No. I don't think so at this moment. I'm still digesting the information and quite frankly trying to figure out how to repeat this back to the Registrar Stakeholder Group, but thank you.

DONNA AUSTIN: I guess I have a little bit of a similar challenge. Okay, all right. So, Russ and Karla and Jennifer, thank you. Karla, I guess keep us informed and let us know. I think we would appreciate a heads up at least a week or two in advance of when you want to get back together.

KARLA HAKANSSON: Of course, yes. We'll do that.

DONNA AUSTIN: All right. Thanks, everybody. I think we can end the call now.

SUE SCHULER: Okay. Thank you. Andrea, please stop the recording.

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