Emily Taylor:	…dinner tomorrow evening and we can just chat with them informally so it's not a big inquisition session. But if that's possible to invite them?
Female:	I'll check their schedules and let them know that you guys want an update on any new activities, and I'll get back to you on when they're available.
Emily Taylor:	Yeah.

[break in audio]

Emily Taylor:	Hello, everybody. Hello. No, I'm sure it's going to be the most fabulous spectator sport in the world, but you're very welcome to. Would it disturb your mojo if we all moved a bit closer together so that we don't have to be on…

[break in audio]

Emily Taylor:	Actually, I've just been told we're recording so we need the mics, but we can still sit closer together.

[break in audio]

Emily Taylor: Everybody, well let's settle down. If you can bear to move closer I think that's great. We have to be on mic because we're being recorded so I don't mean to add extra formality for that.

This session is on purpose quite unstructured because we're not here in full as a team. People have either arrived after all-night flights or they're arriving through the course of today. However, I think that what we can do is to think about our goals for this ICANN meeting, and to see whether amongst the people who are here we've got some areas of the report that we could usefully work on in small teams, face-to-face; and whether there's any progress that we could make on drafting.

And just to introduce you, Alice has very kindly produced a sort of map of where we got to in Marina del Rey on our recommendations, and it's color-coded for ease. So the green ones are where we're pretty comfortable and we think we've reached agreement. The yellow ones are further work needed, and I think that this is probably a good place for us to be starting as we're working through our work this time.   But maybe as there's relatively few of us here, perhaps I can just ask Bill, Wilfried, Lutz, Seth what you'd like to… If we're here on Monday evening, what do you want to have achieved and what do you think we can realistically achieve at these meetings?

Seth Reiss: Wilfried, it looks like you wanted to start. Or was that just a friendly face?

Wilfried Woeber: That's okay, I can try to start. I have to admit for the opening that I didn't get more than 50% of your stuff because of the distance – that was the reason why I was moving closer to the source. It's probably going to be pretty unstructured.

What I would like to do is to join in with the editors of some of the chapters because I had the opportunity while waiting for a flight to read through all of the text, and so I've accumulated a couple of comments or questions. And I think it would be maybe helpful to team up with the individual editors of these chapters and try to find out whether there is substance to that.

Secondly, I would like to use this dedicated time to finalize the IDN explanation thingie, because we still – we being the Russian colleague and Sarmad, we sort of still have that on our plate. I did not get around to do it until now but this is the time where it has to be done, and it's the opportunity because there is dedicated time for that.

Other than that I don't have any sort of point of view, or any suggestion or any request. I'll go with the flow.

Emily Taylor:	Thank you. Does anybody else want to make a contribution? Seth? Lutz? Bill?
Bill Smith:	Yeah, I thought as we discussed earlier, I think the idea of trying to finalize our recommendations by Monday and appointing editors that are willing and that have the confidence of the group. I mean those weren't my ideas but I like them.
Emily Taylor:	Thank you. Lutz?
Lutz Donnerhacke:	I like to go the route of the technical aspects of the current report vein, in order to find out some nitpicks and correct them, make it a little bit straightforward; and have a common argumentation that we can use for how DNS is working, how WHOIS is working so we do not have to switch between two different argumentation roads – simply to simplify the document on technical issues.
Emily Taylor:	Okay, Lutz. Is that throughout the whole document or is there any area in particular?
Lutz Donnerhacke:	Mainly the first paragraphs, the first chapters where some definitions are introduced. I believe it's possible to streamline

them a little bit and make it more clear – what happens, what happens on the technical side, what happens on the political side. But they are very similar and so it should reflect in the document that they are similar.

Emily Taylor: Okay. Do you have any other… So, you'd like to review some of the technical accuracy of the early chapters. Are there any other…

Lutz Donnerhacke: Only to correct a few phrases.

Emily Taylor: Any other objectives for this time together in Dakar?

Lutz Donnerhacke: No. In most parts I'm comfortable with the document. I'd like to have an annex, an informal annex on how special implementations of WHOIS will influence the goals of the various stakeholders and individuals – how can the different technical approach full circle the needs of special parties? But I think that it's not possible to get such a document as a WHOIS Team document, or I'd like to prefer an informal annex.

Emily Taylor: I'm seeing quizzical looks. Anybody want to respond?

Bill Smith: Yeah, this is Bill Smith.   I'm not sure what you mean by an informal annex that would be added to our report.

Lutz Donnerhacke: It should not. The word "informal" means should not be included in the report. I'd personally like to write down how the different approaches might come out in the future. If one of the proposals in the draft are laid down, what would be the result in the next few years for the different interest groups if a special proposal is taken and implemented in a full, strict way? Just maybe more for me than for others. I have to see what will come out.

We have a lot of interest groups here and we have a lot of interest from the law enforcement, from the intellectual property peoples, from the privacy information; and we have a lot of approaches of what can be done and technical issues. But I do not see a short document referring "If we are going this way, the following things will happen," or how can the different groups fulfill their needs? What will be the consequence for them? I do not see such a document at the moment – a short one which makes an overview. But I don't think that's a document for the whole group.

For instance, if we are removing WHOIS altogether, what will happen? If we are removing WHOIS services altogether what will happen? How can law enforcement get information they need? Or if we have a full-featured WHOIS that is accurate in every position, what will happen to the registrars? What do they have to

do, too? What will happen to the people who want to register a domain name?

Bill Smith: The answer is we don't know the answer to any of those things.

Lutz Donnerhacke: Yes, because we do not know this we cannot make a formal document, and because it's a forecast it can't be a document of a Review Team.

Bill Smith: Lutz, is this something that you can do an outline of?

Lutz Donnerhacke: I just want to make an outline, yes.

Bill Smith: Then maybe it's easier for us to understand how it might integrate. On the surface of it, just hearing that this is future-looking, that's out of scope.

Lutz Donnerhacke: I started this and put it on the WHOIS website, and but it was only a very small one. I want to extend it so that for me, I have an overview of what will happen if it goes in a specific direction. I fear   that   a   common   document   will   come   out   with

recommendations which contradict each other, that in one place we are going to say "We need," for instance, "law enforcement's correct information." On the other hand, we have the requirement that say we do are not allowed to collect it. And I don't think that there is a solution at the moment, and there will not be a solution at the moment, but in German we have the word [technikolklopshin] – what happens if a special technology gets introduced to the final end; to the political, to the technical, to the personal areas?

I think it's necessary to have such a document but I believe it's not possible to have such a document from the WHOIS Review Team because it's not part of the review.

Emily Taylor: I think your thought, Lutz, that we need to think through the future of our recommendations if they are passed…

Lutz Donnerhacke: Yes of course. Yes, of course, but we are not allowed to make a prediction on it because it's not in the scope of our Review Team.

Emily Taylor: I think if I can just sort of level set about what we have agreed to so far, which is that we have a scope that we agreed back in January which is very closely tied to the Affirmation of Commitments – amongst ourselves, we felt that a priority is to get a set of recommendations that we can, each and every one of us, endorse. And that's going to be a challenge, and it might mean

that we can't go as far as we would like to go on some aspects but nevertheless, that is the challenge we've set ourselves.

And I think with that in mind, the idea of obviously each individual is free to publish whatever they'd like to do in relation to WHOIS, but it can't be a product of the WHOIS Review Team unless it is endorsed by the whole Review Team. And I would suggest as well that to embark on a new area of work this late in the Review Team's process when we have a draft report, an outline which we've negotiated over months, is going to be a challenge. And I think that that's going to be a case that you're going to have to argue when the full team is here about their openness to doing that.

But I see that there are people in the room who've joined us, and also Michael, you're on the bridge are you? Can we hear Michael? No. In part.

[background conversation]

Emily Taylor: Well, Michael, if you can hear us welcome through the Adobe room and we look forward to your participation. But just that there are people in the room so I just wanted to give an informal update of where we are.

We have a draft report which has been sort of put together on the private Wiki. It's been a subject of discussions at a meeting last

month. During our meeting in Marina del Rey last month we started to work in detail on our draft recommendations and we have produced here those copies if people in the room want it – a sort of where we are with them.

I don't think that that's giving any secrets away because anybody who wanted to turn into our last meeting would have all of that information in any invent. The ones marked in green are agreed, the yellow ones are still to be agreed, but we sort of kind of all are agreeing but there is something there that we need to tease out. We've just had a little tour de table and asked people what their expectations for our time together in Dakar are. We agreed last month that our priority should be to finalize the report and have it published by the end of November, which is the target we originally set ourselves a year ago.

We're still on track for that but we felt that it would be too much to hope to have a draft report published in advance of this meeting sufficient to be able to consult, and so our plan is to use these days together to iron out all of the contentious issues – piece of cake – and then have the report published by the end of November and do the outreach and get reactions and introduce it to the community at the next ICANN meeting. So that's where we're at.

Wilfried, you mentioned that you've actually had the opportunity to go right through the draft report. Has anybody else managed to do that? Would people appreciate a bit of time to just do some reading? I want to know how you would structure the day today

that's going to be of most benefit so that we can hit the ground running.

Wilfried Woeber: May I come back to one of those things? Most of the stuff that I have identified is probably non-contentious and just editorial or moving things around. The thing that really made me trip was the chapter on identification and inventory of ICANN's implementation, and that's not because I think… That's not because I think that this chapter is broken but I had the luck to read it sort of like as an outsider, and the references to the statistical data do not sound convincing or complete.

So I'd really ask all the people on the team who have a faint interest in that aspect to read that chapter, and then either to come back to me and tell me that I'm completely off track, which is fine, or there is a little bit of more work to do with that. And sort of the fundamental thing that I did not get from this piece of text is how to interpret the numbers that I used in this – like so many thousand complaints and so many whatever. But I didn't find any indication about the distribution of the complaints.

You should draw a different conclusion by looking at the figures if you get a total of 30,000 complaints and 95% are by one individual or one source, as opposed to having a sort of broad base of people contributing to that number. And there are a couple of those things which I felt need a little bit more either explanation or a little bit more flesh on the bones, like "This is really how it is," like "This is

the percentage distribution across the number of complainants," or whatever. So if anyone has any interest in that aspect I would ask you to please read up on this chapter, and either agree with me that we should try to brush it up and maybe even go back to Denise or whoever can provide us with the raw figures. That was the most sort of striking thing when I read the whole stuff. Thank you.

Emily Taylor: Thank you. Anyone else?

Seth Reiss: Wilfried, maybe you could attack that?   In other words, take charge.

Emily Taylor: I might be able to help a bit on this because I think way back in June or July I was the author of that text, and the information is really very much an action replay of the information that was given to us in January by the Compliance Team. Now, like you I read the report from start to finish in preparation for this meeting and I think that there are various problematic aspects of that chapter.

Looking at it now with the analysis that Peter has drafted afterwards, there's a lot of duplication and also a sort of plunging into a level of detail which I think is probably going to be inappropriate for this. And so I would suggest that a lot of the detail could probably be referred to in an annex and taken out, because I would like the report to…   We've got the benefit – I

think, Bill, you did an excellent job on the executive summary and I've had a lot of very positive feedback on it from other people as well. I think that gives us a template that we should try to continue through, a flow that will take the reader through the logic and explain where we're coming from without actually just overburdening with a load of detail.

We've done a lot of work but probably this is the time to throw a lot of it away if it's not going to make the cut, so thank you very much. That's actually the first substantive feedback I've had on that chapter. I agree with you, and I'm very pleased to have it. Are we all talked out? Do we want to…

I wanted to set us up in the best way for tomorrow, and it might well be that we can just sort of sit quietly side-by-side and go. You've got a print out of the whole thing, I do as well, and just go "What did you think about this section? What did you think about that section?" It might be a workable thing to do.

You want to do some drafting with Sarmad. I saw him this morning. He's going to be around – he's aiming to get us a draft by the end of the day. I'm not sure if he'll be attending today or not because he's also been travelling. Suggestions please?

Bill Smith: I think generally the suggestion that we work on the recommendations, well either today or certainly tomorrow; that we leave here and try and have an agreed set of recommendations I think is the most important thing. I don't know if there's anything

we can do today on that. The other option is for us to potentially do some wordsmithing on pieces of the document.

I guess my only concern with that if we start too early is that if other members who weren't present have anything substantive in sections that we might work on, that they would feel disenfranchised if we do it without them.

Emily Taylor: I think that one suggestion I'd make is that we made very good progress on the recommendations related to data accuracy the last time we met, but we all sensed that with the other major area of proxy/privacy, while we all agree that there's a problem we're not yet agreed on what the solution is. Now, I take your point, Bill – we are a small group today. I don't think that it's going to be appropriate or really save any time if we start wordsmithing the recommendations. But what we might be able to do is just sort of slightly…

Has anybody had any thinking that they can share on the issue of proxy/privacy and maybe any ways through for us that we should be considering; that we just sort of socialize now and think about it.

Seth Reiss: I think it might be useful to socialize about the topic because in a larger group it's a difficult topic to discuss. And so maybe in the small group we can see if there's avenues that we might think

would be more fruitful to pursue. I mean I'd be curious to see what our small group thinks would be the fruitful areas. And so I would endorse that.

Emily Taylor: Okay, I'm taking that as you volunteering to share. Have you had any thoughts about proxy/privacy?

Seth Reiss: I've had thoughts but I don't know what the structure is.

Emily Taylor: Do you feel ready to share them? Bill has got his hand up. Let's go to you, Bill.

Bill Smith: Yeah, my recollection from Marina del Rey is that we all felt that these services provided some utility, right – whether it be from an individual… Well to be honest, I can't remember now. If I'm honest my recollection is that proxy services provide better privacy, and privacy services do something that I am unfamiliar with. So if that's the case they suffer from poor signage.

But in essence we said these are useful for individuals – the ability to protect information. They're also useful for corporate entities who are looking to secure a domain name but not advertise who they are, who is behind the domain name until the service is launched, at which point it switches over.

So, from my perspective it's like we agree these are useful and then at the same time we're saying, at least many of us are saying the current system is broken.

Seth Reiss: I think that's right, that we have to…

Emily Taylor: Sorry, Seth – can I just ask you to speak up a little more, both for the recording and…

Seth Reiss: Ah-hah, okay. Yeah, I'm concerned about we're mixing issues, because for the concern from the commercial users regarding the need for trade secrets is a very different issue than the privacy issues.   And I think we need to keep those separate and in perspective, because one solution can't address both of them.

I did read the draft report at all the various different airports I saw in the last two days and it struck me that there seems to be a consensus developing, and maybe I misunderstand that, but from the report it seemed that the consensus was there's a discreet need for a privacy service in which the domain name registrant is always available but other things may not be.   That's what I understood from the report and that made some sense to me.

And then that seems to address data privacy issues, and that would be limited to private persons, non-commercial.   That seemed to

emerge from the report and I liked that. So one thing that I wanted to get as feedback from this group is am I correct that that's the developing consensus?

And then the other aspect of that – the proxy doesn't serve any of the needs that were identified as being important or legitimate needs, like the privacy needs, except for perhaps that trade secret need of the commercial users. And my feeling is whether that should be even a part of the discussion because I'm not sure that level of proxy should be legitimized in a commercial service; whether that should be just the subject matter for private contracts as it has been historically in any…

In other words, hundreds of years ago solicitors and notars in Italy were providing the straw man service, and by recognizing it and discussing it we may be doing a disservice because we may be making it into something more than it should be. So I'm not sure I got that from the report – that was just an observation.

Emily Taylor: Thank you. Olof?

Olof Nordling: Just a brief intervention here. Michael Yakushev, he can actually hear us and he says that "I agree with Bill – I had the same understanding," so my attempt to channel him here.

Emily Taylor: Thank you very much. Bill?

Bill Smith: I was just going to respond that I think in large measure I agree, Seth. The problem is we have both currently is my understanding – we have both privacy and proxy services, so ignoring them may not be an option for us.

Seth Reiss: My suggestion is, well first of all I'm not suggesting that we ignore privacy because privacy seemed to come through as something that may be demanded by the structure, by taking into consideration privacy laws in various countries; and the very clear interests. My suggestion is we shouldn't legitimize a proxy service that may have no place in the WHOIS structure. I don't see anything in the WHOIS structure that suggests that we need to recognize it. I guess I have a concern that ICANN policies, the policies in the RAA for example, may legitimize proxy but should not.

By immunizing, by providing an immunity to a service if they notify their client swiftly, we are endorsing an arrangement in the proxy side that maybe we shouldn't be. So I guess that was, and those are my thoughts. That's not coming from the draft report.

Emily Taylor: Yeah, I think if I can just sort of… My recollection of where we got to on this subject in Marina del Rey is something like what you were describing, that there was a recognition that with a proxy

service you've got somebody standing in the place of the registrant and to the world at-large, they are the registrant. And so they are taking on a level of liability that a privacy service does not do, and so that was the reason why we were thinking about them in a separate way.

I'm not sure that we got as far as saying that, or that there's a consensus developing that the name only ought to be there in a privacy service. I know that there is a reference to that in the text; I'm not sure if that's been intensely discussed or agreed on.

The issues I think, sort of thinking back on the inputs that we got from the various groups that we've discussed this with over the last year, is that the real issues on proxy and privacy are release of data and the timeliness of release of data; that almost everybody we spoke to, even people you wouldn't expect to hold this view, were comfortable enough with the idea that there would be some sort of privacy service but they point out there is no current policy whatsoever – that this has arisen out of a gap.

But what is actually gumming up the wheels here is there is no uniform process for releasing data under what circumstances, within what timeframes. And I think that's the area where we should be really focusing our efforts to help, and just sort of orientating us again – we're not here to make the policy. We're not here even to provide the solutions. Although that might seem a little bit useless I think we can use it as a freedom because we can say our job here is to review the policy and the effectiveness of its implementation. Where there isn't a policy and the current

situation is not effective we say so, and we say "Well, what do we expect to happen as a result of this?"

So we can go detailed or we can go high-level on this, and I'm just wondering now, having a month since our last meeting if we've got any further views on that. I've got Bill, Wilfried? Yeah.

Bill Smith: So from my perspective, I mean privacy and proxy services are in play, they are in the RAA. They are specifically mentioned, both privacy and proxy services. So we cannot… We recognize or we've heard that there are issues with them. The fact that they are in the Agreement says that ICANN signs these agreements, ICANN understands that they exist, yet there are no policies around these services. They are recognized players but they have no obligations; they have less in the way of obligations than registrants do, and registrants are not contracted parties.

There's nothing that I can tell in these agreements that says, as Emily has pointed out, anything like an SLA for what they must do. The only thing that's ever mentioned is "The registrant has some number of days to respond to certain requests." But the privacy service or the proxy service has, they may not even have an obligation to relay the request.

Seth Reiss: So we recognize that as a problem, right? I mean we can develop a consensus on that – that's a problem, which is a first step.

Bill Smith:	Okay. From my perspective, right, all of the agreements and the policies around WHOIS and domain name registration are set up with the understanding that there are registrants, registrars, and registries. And then there was a gap, a gap was recognized and some services were created, and ICANN recognized those services as privacy and proxy services. Yet they're not part of the ecosystem. They recognize them but they're completely outside of it and from my perspective, that is a problem, okay? There is no way to tie them in contractually.
Seth Reiss:	There is if you attack it but I mean they're being addressed informally now through the RAA, just like resellers. Isn't it the same, isn't this a similar development as resellers – that they just appeared and so policy had to address it, and it was addressed through the RAA?
Emily Taylor:	And I think that's something that sort of popped into my head as well on the journey over here. Actually the RAA deals very deftly with resellers because they just go "We don't care – it's up to you. You're the registrar, you deal with it. If there's a problem with the reseller it's your fault." So that is an existing mechanism which has been used. It's very deft, it's very – it just sort of eliminates a whole load of "but" passing. So that's an interesting point and I have Wilfried wanting to…

Wilfried Woeber: Yes, I'd like to follow up on your last statement, sort of the "Where is the end of the responsibility chain?" I would suggest that we do not go into as much detail as try to recommend contractual relationships or timelines to disclose information or whatever it is, because my feeling is that the different parties trying to get at the information will have substantially different recommendations about timeline, quality, responsibility and responsiveness.

I'd rather suggest that in the report we just recognize the fact that these services are mentioned in the RAA, but the way they are implemented and used at this point in time is outside the architecture and expectations that were in place when the RAA, when those texts were drafted because I am pretty sure that everyone at that point in time was working along the line of thought and the expectations that those service providers would actually act as a one-to-one stand-in for the registrant.

As it turns out in that respect, it's developed into a different type of procedure or sort of this whole thing is trying to stretch the policy because there are no boundaries given. So my proposal actually would be that we just recognize that as a fact, state it, and let other groups or other people deal with this. This can either be a policy development activity like to amend the RAA, or this can be some sort of… I don't know who would jump on this open issue and try to plug the hole. But I don't see any responsibility for this team to go into any detail on how to, other than stating "The original

assumption was that these parties would act one-to-one as a replacement for the registrant. As this is not the case, this is a problem." That would be sort of my approach to that.

Or if we want to come up with a recommendation, then we could try to recommend that those parties and those services have to do exactly that – behave like a registrant. And if they don't do the right thing, whatever it is, they would be held liable or treated just as the registrant because in the end, to the outside world, that's what they are doing. They are keeping their hands on this piece of namespace.

Emily Taylor: Lutz and then Seth.

Lutz Donnerhacke: Did I understand correctly, Wilfried, that you propose only to mention the definition or the problem and keeping every other problems out of this document? So all the questions that are regularly made to ask questions to a privacy service or what the privacy service is for is simply a definition in our document? Okay.

Emily Taylor: Seth?

Seth Reiss: Well, no, I understand, Wilfried, your concerns that we don't say too much. But I'm also concerned that we don't just repeat what everybody else knows. I'd like to see if we can't move this area forward a little bit without making policy, and I guess that's been my suggestion.

And I'll go back to the distinction. I think privacy and proxy address very different things, and I see it as a step backwards for treating them together. I think your point about the service standing in the place of the actual domain name beneficiary, that works for one thing and not the other. Privacy to me is addressing these interests that are out there that everybody is talking about and concerned about. The proxy is more of a commercial thing.

And I think it's important if we can to recognize that one thing is addressing important interests that are there that ICANN has to pay attention to, and the other thing may or may not be. So I think, yeah.

Emily Taylor: Bill?

Bill Smith: Sure, so I'm not a lawyer but I have to read contracts all the time. I don't know how many times "privacy" is used in the RAA. "Proxy" is used five times; it is not a defined term – neither is privacy. If nothing else we need to point that out, because from the RAA I cannot tell what either of those are. They're listed: "If

you use these things, this stuff has to happen, that has to happen," but I don't know what they do.

Your suggestion that privacy does one thing and proxy does another makes some sense, but I must admit I'm sitting here saying why couldn't a single type of service provide what's needed in both instances – both for individuals and for commercial interests? Why do I need two?

Seth Reiss: You need two because they serve different purposes.   I mean I think the RAA, I'm not sure but-

Bill Smith: That's not a reason to require two.

Emily Taylor: Well, I think, if I can just pop in at this stage, I think that we need to… So where we're hovering around is Wilfried's proposal that we simply identify this as a problem and throw it back in some way, and say… Are you saying that we don't even go as far to say "And so you need to…" fill in the blanks with an appropriate PDP or contractual amendment? You want to stop at just identifying the problem, or…

Wilfried Woeber: I would not object against sort of suggesting ways forward, but I would be hesitant sort of to give specific advice, because as I said,

my feeling is that it's both an issue with terminology has Bill has pointed out, correctly I think. So I think there is no common understanding in the community nor in the registrar business, registrant business in ICANN because nobody did expect these things to pop up and to happen; and nobody knew how they would develop in real life.

So that's the issue where I would put the focus on, and tell the community and ICANN "Well, this is an issue and you have to deal with it." And we can certainly try to come up with one or two suggestions on how to deal with that but I think it would be either the responsibility of the community to do some sort of policy development work, or maybe both of them – for the Board of Directors to sort of take that up as one of the items and decide whether they want to amend the RAA.

I have to admit that I don't know any details about policy development in the names world, like sort of whether it could be done top-down or whether it has to be done bottom-up, or sort of horizontally, or I don't know. I'm just a numbers guy, so bear with me.

Emily Taylor: Thank you. Olof, you've got something from Michael?

Olof Nordling: This is the input from Michael, and he says "I agree that we should limit ourselves to managing the problem, but I would rather

mention as well that the practical issues are in liability/responsibility distribution."

Emily Taylor: I think that this is a useful line to explore further. The obvious drawback of the suggestion that you're making is that it looks like we're just sort of throwing it over the wall for someone else. And so the attractive side of it is that I think we got, where we ended up down in Marina del Rey was sort of a bit of a rabbit hole of endless, more and more detail about how this new world that we were designing was going to work. And I think that we'll probably all sort of step back and go "Hang on, that isn't really our role here."

I would like to explore further the idea of what guidance would we give to help the community in trying to grapple with this? And one thing I was thinking as you were speaking, Seth, is yes, there are legitimate uses of these and I think that those are recognized. There are also differences between the two services and I think that we all would say we could probably explore those, make those a bit clearer in the report itself and help in that way.

One thing that we're all skirting around and not discussing is the abuse of WHOIS privacy and proxy, the suspicions that many in the community have that they are just actually a cloak for some bad actors within the industry to hide cybersquatting or other activity or criminal use. And so we do need to confront that. We need to explore that issue and peel back "This is the good bits of it.

This is the social utility, the way that it's helping to oil the wheels of these transactions online and addressing individuals' concerns or pre-launch commercial secrets; and this is also the unattractive side of it that is causing a problem."

So another aspect which we've been hovering around just here is what does the RAA say at the moment that might be able to help us? I think I splurged something out for the group of my brilliant thoughts on this, and one approach would be to go "Well, until there is a policy let's go back to the contract. The proxy is the registrant, so deal with it; and the privacy on the face of it is inaccurate details, and so the whole registration becomes subject to cancellation according to the contractual regime." Is this what we want? Olof?

Olof Nordling: This is coming from Michael again: "Yes, Emily. Thank you for telling exactly what I am silent about."

Emily Taylor: Thank you. Oh, welcome Kathy.

Bill Smith: One of the things I think we need to remember or that the community needs to remember is we're talking about the domain names system, not just a single registrant's rights. Do all of the internet users have faith in the system? And if we have a system that allows, at least from my perspective willy-nilly registrations

with incorrect or purposefully obfuscated information, that causes concerns about the system itself – I lose faith in the system. And based on my read of the contract, these services are acknowledged but there's nothing in that contract that says "These service providers must in fact do things that ensure that the system itself isn't damaged."

Emily Taylor: That's a very nice link to the consumer research that we've just had back. I don't know whether people have had a chance to get on top of that yet, but perhaps we can all just… I've had a quick flick through and a lot of what you are saying seems to come through in the consumer study in that whether or not they could ever describe WHOIS or even perform a WHOIS search and read the results. There are some basic building blocks of trust online which I think come through very nicely in that study in that people like to transact with people they know.

I mean who's surprised by any of this? People like to transact with people they know; they like to know how to contact people they're transacting with. And if they can't find out how to do that their trust is eroded, so we've got some fairly… That's what came through to me from it; I'm not sure whether I've just sort of read it in a hurry. So there's some relevant issues here that are coming through on that consumer study that can help to guide us a bit on the way we handle privacy and proxy, perhaps.

Kathy, would you like an update on what we're doing?

Kathy Kleiman: Yes please, and again, apologies for joining you late. And do we
                        have anybody on the phone?

Emily Taylor: We've got Michael on the phone.

Kathy Kleimna: Oh excellent. Hello, Michael.

Emily Taylor: And just for Michael's benefit as well we're welcoming a number
                        of participants in the room as well who are here to listen. So this is
                        an informal session.   We're goal-setting and so while I'm just
                        burbling on now you maybe can think about your goals for these
                        next few days.

                        Alice has very kindly done us a nice document which attempts to
                        get to where we got on our recommendations by the end of the
                        Marina del Rey so that we don't have to spend hours trying to
                        remember where we got to, which was good.   And one of the
                        things that we've just been doing to sort of prepare for our
                        discussions is thinking about whether people have had any further
                        thoughts on how to handle privacy and proxy services. I know that
                        this is an issue quite close to your heart, and we've had a
                        discussion basically…

If I can just sort of present my own summary of where we've got to on that is a sense that we were all uncomfortable, and as I think you were, with a raft of detailed recommendations on privacy and proxy. We are conscious in not wanting to stray into policy creation; we are conscious that there are – I think this is a point you made – other studies going on at the moment which we don't have the benefit of.

However, we recognize that there's both a utility to these services and a problem in that they are abused and there isn't a service level – that was Bill's phrase – about what people can expect on data release. And if we were looking at what's there at the moment, what's the default position with a lack of a policy – well, the RAA talks about privacy/proxy services without really going into what they are or the differences between them. We think we can do some helpful work in highlighting the differences between them.

But if you were reading the contract strictly the proxy is the registrant and bears the liabilities of the registrant. The privacy, on the face of it is inaccurate. If there's no relay there's an inaccurate piece of address, if you like, of data. Is this the default position? Are people happy with that, because until there's a better one that might be it? So I know that you'll have views. We're really just trying to orientate ourselves and see whether we've thought further.

And maybe first, before going in and plunging in, we could just think about what you'd like to… It's Monday night now, we've finished all our meetings – where are we in your perfect world?

Kathy Kleiman: It sounds like a good place to be. I'm not going to speak to the recommendations now. I have to speak into the microphone? What a concept.

Emily Taylor: Just for the recording. I know it's silly when we're this small.

Kathy Kleiman: I just wanted to share my comments on reading the whole report and on reading the new sections, which is that I think we've really got something that's gelling now. And I've shared with Bill that I think the new executive summary is outstanding. It really is a very readable piece of material that's designed for the much broader audience than ICANN insiders who are interested in the WHOIS issue. So it's designed for law enforcement, it's designed for people interested in consumer trust. It's designed for the general public which is an outstanding effort that I could never have done because I speak in too many acronyms at this point.

So I really like that. I really like Sharon Lemon's new piece on the domain name system and how it works with diagrams showing it – two extremely valuable pieces. And before we even get to proxy and privacy recommendations I think we now have a number of recommendations on the policy front and on the compliance front. I mean if I were to write the recommendations document, the number one recommendation would be find the policy – create

one. [laughter] Where is the policy? Create one place where the policy is because I remember that was the first recommendation we all agreed to. And we realized when we submitted ours that that was kind of coming up at the top of everyone's list.

The second one would be about compliance efforts; the third one would really be about communication efforts – whether it's communicating what the policy is, whether it's communicating about the results of the compliance efforts. So I think we've got a number of recommendations coming in right off the top that are flowing very clearly from work that's been going on.

And then…we get to the proxy/privacy issues that are really kind of the nut of the problem where so many different people have different perspectives on it.   So it's interesting that the recommendations, jump into the most difficult ones. But that's not a bad place to start because it means that this is really, at the top of this list is really what we're all thinking about.

Bill Smith: If I could? First, thank you for the compliment. The second thing I want to say is on the "define the policy," that's superb. I had forgotten it. We're much too close to it. But basically, to me it argues for a strong message, from my perspective, of going back to ICANN and saying the things around simplicity, clarity, communication: basically "Make it clear, make it concise, and communicate it – whatever it is. Your policy? Boom, do that." And for proxy/privacy, it's in the contract but there's no definition

of the terms. As I said earlier, I don't know what they mean.
Anybody reading them doesn't know what they mean and in fact,
basically each and every time that they're used inside the contract
it's "privacy" or "proxy."

So they're used identically – there is no way to tell what the
difference is from the contract. So to me, that would be one of the
things we might want to go back when we get to privacy and proxy
is "If you're going to have these things, it needs to be defined.
What are they doing?" And then again, clearly, concisely state it
and communicate it, and make it obvious. I haven't looked here
but I suspect there's nothing about relay and reveal in the RAA,
right? And it won't be defined anywhere.

Kathy Kleiman: There's not and there really should be.

Bill Smith: Yeah, exactly. I mean it's used all the time in discussion but as a
                          newcomer I have no idea how to figure out what it means, and as a
                          consequence it actually gets used differently by different people.

Kathy Kleiman: Of course.

Emily Taylor: I think we may be heading in quite a useful direction here because
                          if we take Wilfried's minimalist approach but on the basis that we

are trying to be helpful, rather than just shirk our duties and we're trying to actually provide some guidance, we can be saying "Our expectation is that there will be a policy on…" I know we're delving into the detail, "…on privacy and proxy, and that it will deal with issues like reveal and relay; that it will set expectations and provide a mechanism for what happens if the expectations aren't met. What's the fallback position when people aren't doing their job?"

That might just give us the sort of… We don't want three pages of 25 resolutions on privacy and proxy that people are going to go "Well, totally unworkable." Wilfried and then Olof.

Wilfried Woeber: Yeah, the longer I am listening to this really helpful discussion here the more I get the feeling that there is no contradiction in my recommendation as opposed to any other ones. My feeling is that sort of my limited approach would rather be like the first required step which is within the mandate of this team, and then we can build on top of that and can go ahead and say "Okay, this is what the expectations are and this is what the final result probably should be."

And we can most probably, as you suggested, even maybe come up with one or two suggestions on how to attack the problem. So I don't see any sort of friction or any clash between those two proposals.

Emily Taylor:	Mind you, we don't have everyone here.
Wilfried Woeber:	Sorry. My core point actually is sort of that we point out, and if we can agree on that, that we point out formally as part of the result of this Review Team that there is a problem and what the problem is as we see it. And then we take it from there and say "Okay, our understanding is that this was the set of expectations, this is what probably in the future we want to have, and this is how we can make progress or the Board can make progress or the policy development process can make progress," or maybe both of them are doing that. So I'm fine.
Emily Taylor:	Thank you. Olof?
Olof Nordling:	This is from Michael again: "So let's add something, that there is no consensus on even how it all should be defined, and it is advisable to remove the ambiguity. Emily's minimalistic approach is okay."
Seth Reiss:	I think the plan that I've heard is to explain there is a problem, educate, try to define but don't make too many recommendations. And I think what Bill's saying, if we can explain the problem well, if we can try to attack the terminology I think we can advance the

subject that way. I mean I would be satisfied if we somehow advanced it beyond what we've heard, and we've heard a lot from a lot of different communities. So I think that would maybe be a good way to advance the topic.

Emily Taylor: Kathy, can I come to you and get a sense of your reaction to what you're hearing?

Kathy Kleiman: I wanted to capture what you said and write it. Let me see if I got it because I thought it was excellent, that we really need to define the terms, define the expectations and set out consequences if the expectations aren't met? Does that sound like a good summary, and specifically in the proxy/privacy – does that sound like a good summary of what Emily said?

Wilfried Woeber: I like it. I'm just wondering whether we are interfering or being disconnected from what ICANN thought or maybe is still thinking when they reference these words in the RAA. I'm not objecting; I'm just wondering are we opening a potential [cap] without trying to double check with them whether our definition or our recommendation would be compatible with their interpretation? Or can we just do that without worrying?

Seth Reiss: If we can't tell what it means by reading the RAA that is a gap. And that is what we're here to do, is to recognize that there's a problem because you can't tell when reading the RAA and different people will take it to mean different things.

Emily Taylor: Also, if somebody understands this stuff and hasn't told us, why did they let us suffer so much? [laughter] They deserve it! Kathy.

Kathy Kleiman: But also we have been working off of some general definitions that came out of work, at least when I was sharing them they came out of work on the four GNSO WHOIS studies that have now been funded and taken place. So we can go back to those because there was actually some exploration then of "What do these terms mean?" So there may be some diversity in the field but we found some general definitions that we were working with because…

[background conversation]

Kathy Kleiman: And it may be worth going back to those documents and just listing the terms because I think they may be defined there. And we've got our next meeting where we go out and say "These are our recommendations. Do they make sense and are we using terms

you agree with?" So there'll be one more time to sort of circle back to ask the question Wilfried just raised.

Emily Taylor: Thank you very much. Have we got as far as we're usefully going to get in our exploration of these issues given our small group on the proxy/privacy? Kathy, did you… Sorry. Bill?

Bill Smith: I'm just wondering, maybe we want to use Kathy's suggestion: start with the simplest of recommendations: "Find or write your WHOIS policy." It's as simple as that, right? That's number one and then we can go on to some others, and maybe we can get sort of an outline for what we think are the important recommendations. That would be useful for tomorrow.

Emily Taylor: That would be very useful for tomorrow because we've got sort of about, well you counted them up – there was about 75 draft recommendations at the moment. I think that's way too many and I think we've probably forgotten what a lot of them are.

So something that we could usefully do is go back to the long document and just identify the areas where we want to make recommendations; and also get a feel for like there's going to be a sweet spot for the number of recommendations that's going to be effective because what we do want is the recommendations to be accepted, acceptable and implemented.

And if we have 75 we are not helping ourselves. So just thoughts on that?

Bill Smith: Yeah, five plus or minus two. Seriously. When AT&T did phone numbers, when they expanded beyond the original, the research they did – humans can remember five things, occasionally up to two more – so seven digit numbers, but even better three.

Kathy Kleiman: And of course in our world, humans can't remember IP addresses so we created these crazy things called domain names. Let me throw out a suggestion and see if it makes any sense. When I was looking through the detailed recommendations, both on this beautiful color-coded new sheet that Alice created which is great as well as just some of the older papers that we have, everything seemed to be gelling into several types of categories.

And I was wondering if we're going for a few big-picture recommendations, whether we use… I would hate to lose some of the great details, especially some of the compliance detail of "Studies are being done, the following studies are being done, but the results aren't being reported or shared," etc. So maybe that's what the report can go into, is additional findings and sharings so that those people who have to implement, who are sitting down to implement our recommendations have some of the benefit of the guidance of what the compliance group did, what the policy group did.

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Emily Taylor: So you're suggesting that in a way we hive off a lot of what's currently "recommendations" into "findings" or something so that it's there for people like the Compliance Team if it can help them, help to guide them; but actually we go for trying to get the target of having a few, at least a few categories of recommendations which are our headlines. Is that-

Kathy Kleiman: Exactly, exactly. Or even put a few more teeth into it – more than "findings." "In order to implement our recommendation, the steps would include the following…"

Emily Taylor: Okay, yep. Comfort with that?

Bill Smith: Yeah, if we could do that today that would be great. I mean if we can find a way to distill… It was roughly 75 that I saw – that was the highest number I saw, and distill those into ten groups, five groups, whatever – some reasonable number that are digestible by us as a collection…

[background conversation]

Seth Reiss: I mean let's aim for five and see what it looks like. I had in mind maybe two sets – the five key ones that were most important and we had the strongest consensus in, and maybe a second set. I don't know – maybe the second set won't be necessary once we see what they look like.

Emily Taylor: I was going to ask for some headings.

Kathy Kleiman: …a terrible question, which is if we go back into brainstorming mode we need pieces of paper.

                          Just for the audience, sometimes we have great big tablets which it's become a joke that we have them and we tape them up on the wall, and we do our work that way.

Emily Taylor: So if we took a break and had a coffee then we could investigate whether we have any of the stuff.

[break in audio]

Emily Taylor: Okay. We'll have a quick break and come back in fifteen minutes.

[break]

Emily Taylor: We've finished the whole thing, Susan, we're done.

[break in audio]

Emily Taylor: No, we're brainstorming. Alright, what we're going to do is we're going to restart, and our aim…   Should we try and get some headings first in our brainstorming about the areas where we need to remember to do recommendations? Yeah?

So thinking back to our scope, let's think first about our policy recommendations. Anybody like to kick off?

Seth Reiss: Get one.

Emily Taylor: So we should have a heading called "Policy" and then underneath that, "Get one." Any other policy gaps? We've just been talking about privacy and proxy so should we put that down? I think that's probably where we deal with it.

Kathy Kleiman:	Yeah, in my notes I put, in addition to "Get one," "Make it available and make it accessible," kind of in words that are understandable.
Emily Taylor:	Yeah, there was some nice wording on that about…
Bill Smith:	Yeah, Glenn had come up with those words – "Clear, concise, communicated."
Emily Taylor:	Yep. So that's under "A." And also I think there's a… Sorry, carry on, Kathy.
Kathy Kleiman:	I was thinking when we put up a recommendation maybe we should also think about where we're driving that from that will be in the report. So the underlying place in the report that will be is coming from the policy chapter where we're going to show that "There's a contract section here and a contract section there," and that when we get to something like proxy/privacy the terms aren't even defined. So it's going to grow from that foundation or from that root.

Emily Taylor:	I don't want to clutter this document but I think that's a really important thing that we need to not forget, is where… So as we're going through the brainstorming let's give ourselves the discipline of saying "So where in the report are we going to get the basis for this recommendation?"

Okay, yeah. Kathy, can you speak on the mic?

Kathy Kleiman:	So under "Policy Recommendation #1: Get one," and then right underneath that would be "Location of findings: policy chapter," or something like that.

Seth Reiss:	How about just a parenthetical after each one with a reference to the report?" I mean otherwise we're just repeating. And the actual soft covey can be a link I guess, if we get that far.

Emily Taylor:	What we're doing here is basically a note for the rest of the team that can help us get started tomorrow. What we're trying to do, Susan, is to identify… We've decided there's about twenty pages of draft recommendations at the moment – too much, too much. And so we're aiming for about five headings. Well in fact, Bill's put this on it – five recommendations. I think it's a good discipline; let's see how we go here.

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Seth Reiss: We're at consensus policy here.   We think the privacy/proxy
                               probably shouldn't be under policy.   It's going to have its own
                               heading.

Kathy Kleiman: So "Clear, concise, communicated" is the policy recommendation
                               that we're talking about now I think.

Emily Taylor: But isn't it a policy gap?

Bill Smith: Yeah, I think it is.   It could go there; it could go someplace else,
                               but it is in my opinion a policy issue to the extent that the RAA
                               describes policy.

Seth Reiss: No, I don't think we're debating that.   It's just structuring how we
                               want it to look.   What if we tried to brainstorm our three to seven
                               and see what it looked like, and then go back in and fill it out?

Bill Smith: Okay.

Emily Taylor: Wilfried?

Wilfried Woeber:	Well, that's maybe contrary to the suggestion to go ahead and do different things, but maybe it helps: I think the sub-items are actually on a different level, because the primary thing is that there is no concise policy which is available in one single place. I think that's the flashing headlights, and then sort of on a less important but important plane there is "And if you write that piece of text, please make sure that you get it also to include A, B, C, D." And the A would probably deal with privacy/proxy by defining what it is, how it should be handled. So sort of different importance and maybe a little bit indented.
Emily Taylor:	Yes. I can see where we're going with this. We're going to go for our five recommendations but each one will have fifty-seven subcategories. Kathy?
Susan Kawaguchi:	Since I just showed up, did you talk about what those five headings… Oh, so you just picked a number.
Bill Smith:	I had suggested five plus or minus two as what humans can generally understand and keep in their head.
Susan Kawaguchi:	Okay.

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Kathy Kleiman: And what I suggested was that reading through the recommendations, both the new document and the older documents, that they seemed to fall into some general categories; so that we might want to keep sort of a big-picture overview. Recommendation #1 to me is privacy policy – get one, and the basis for that is coming out of the policy chapter being in different places. Sorry, WHOIS policy, you're right – I'm still sleeping. Still sleeping.

And then more of the details. So if we go into a general recommendation on compliance it would be a lot of the detail. We have a lot of specific details on compliance but they might go someplace else, but the big recommendation would be whatever it is about compliance. Communication is another one.

Seth Reiss: So is compliance the second one?

Emily Taylor: Implementation. What do we say under "Implementation?"

Kathy Kleiman: Is implementation compliance?

Emily Taylor: It includes it but it also includes the contract. It also includes how the policy works out in practice. So in fact I imagine that the policy recommendations are going to be the shorter of our blocks

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of recommendations, because most…   I mean this is always the case with policy – it's the implementation that trips people up.

Bill Smith: I guess if we're going to talk about contract in the implementation then somewhere basically there should be a recommendation that the contract in fact reference the policy as opposed to being the policy.   The language shouldn't get repeated from the policy if there is policy.   The contract should be referencing that policy to say whoever it is, whether it's the registrar or the registry, you must comply; or registrants even, there are policies you must comply with.

Emily Taylor: Have I lost you?   Okay.   You're blinking, okay.   Can I just explore…   This always happens when you try and simplify things: everyone's like "What?"

Kathy Kleiman: Can I make a suggestion?   Would it be worth dividing into two or three groups and seeing how each of us as groups might structure this if we're trying to kind of again…   It seems to me what we're trying to do is come up with the big picture: are there certain categories – is that our assignment?   Are there certain categories where almost all of these flow?

And may I just make the recommendation that proxy/privacy may be good as a category by itself because just it may flow from other

things, but again I'm trying to think simple. And policy "Get one" is a recommendation in and of itself.

Emily Taylor: Alright – this is our task: split into small groups, come up with five recommendations please, and that covers everything that we want to say. Five is something we just made up five minutes ago. It's a discipline to try and force us to be concise and prioritize. This is coming from me – I'm the person who wrote about fifty-three recommendations just on compliance, so I could do with this, too.

Kathy Kleiman: So just give a thought, just to help us out – what would the big picture on compliance be?

Emily Taylor: The big picture on compliance is… In fact I think it's probably captured in the overarching things, which is the compliance effort must be strategic, focused on achieving measurable, stated objectives and should be proactive rather than reactive.

Kathy Kleiman: Can you read that one more time? That's great.

Emily Taylor: It's in the text, actually. So as demand will always exceed the available resources, the compliance effort must be strategic,

focused on achieving measureable, stated objectives, and should be proactive rather than reactive. The one I put before that, I don't know – is it a bit too wooly for a recommendation? Which is "To foster a culture of compliance through dialog with registries and registrars, explore how to create incentives and to reward good behavior rather than focus exclusively on punishing bad actors."

Kathy Kleiman: That's a great finding and a great detail…

Emily Taylor: That's probably a finding, right.

Kathy Kleiman: Oh, but I think what you've got is a big picture from my perspective.

Emily Taylor: Yeah, I think you're right that we should be aiming for one recommendation on compliance, which sort of ties in; but I think that what we also need to do, sort of learning from what we did on the scope – we came up with a very short scope and then a longer roadmap, and I think that we should perhaps create a roadmap for the next few years ahead, to the next WHOIS Review Team, and set expectations about what improvements should be expected and how to monitor progress.

Kathy Kleiman:	That's a really good idea. And so take the more detailed recommendations and they become milestones, how to monitor progress in improvement; how to chart improvement.

| Emily Taylor: | Yeah, we could think about a way of condensing and sharing the detail of our thoughts on the compliance effort, and sharing that with the Compliance Department but not saddling them with a 93-page to-do list; but just sort of say "This is actually the high-level expectation of what we're focused on." I think the other key areas about compliance was resource – resource and organizational priorities. So we probably need to capture those ideas as well. |

| Kathy Kleiman: | Just let me ask for other chapter writers: does anything rise to the top as being kind of a broad overview of the details of what you wrote about? |

| Emily Taylor: | I'm not sure we've got many chapter writers here, actually. Susan, Wilfried? |

| Wilfried Woeber: | I think it's not going to be a chapter of its own, but I'm wondering whether we should include something regarding the IDN-ification of the whole thing. I don't have currently at the moment a point of view like where it should go, or where it would fit into the overall |

structure but my feeling is that with regard to the overall policy; and like "If you brush it up anyway please think about including guidelines or policy provisions to deal with the internationalized domain names, and in particular not just with the domain names because this is more or less," I'm exaggerating, but "this is more or less a non-issue because for the internationalized domain names there is a [seventy] ASCII equivalent."

It's just a little bit difficult for the non-initiated to get the [seventy] ASCII equivalent but it's sort of on that level it fits in with the existing Romanosky whatever. The real issue is actually is the WHOIS service and the contact information, because even if you happen to find out what the xn-- character soup is, the answer that you should get back, for example for something in .asia or something in .cn in the Chinese character set is probably an address in Chinese characters in Beijing; and right now there is no provision and no architecture on how to deal with that.

Emily Taylor:	Seth?

Seth Reiss:	Yeah, wouldn't the idea go be a subheading in policy and a subheading in implementation? Wouldn't that solve it?

Wilfried Woeber:	If you would ask me to come back with an answer in thirty seconds I would say in both.

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Emily Taylor: Do you think it's… Yeah. Let's capture. So can we just put in a placeholder at the moment – IDN Policy and Implementation. Susan?

Susan Kawaguchi: So just trying to catch up here and be in on this time, I think you're right that we just have certain categories that we need to deal with and there'll be subheadings underneath. One of those I think, and it may come up under implementation, but we haven't discussed this a lot is changing to a thick WHOIS; and I think IDNs fall into that because IDNs can be looked up in regular WHOIS record. So at least you can figure out how to do that.

So I don't know where we want to put thick WHOIS but I think we've got to add some detail to that because I think that's a big argument.

Emily Taylor: I'm really pleased you brought that up, Susan, because going through the report before this meeting, I'm conscious that we've sort of very heavily focused on accuracy and proxy/privacy rightly; but we've also lost track of a number of things that we care about – policy being one, thick/thin is another one. And if we're looking for anchors in the report at this point I think we can use the consumer study as a very useful anchor into that thick/thin recommendation perhaps. Sorry, Bill?

Bill Smith: So…

Emily Taylor: I don't know what we're going to say about thick/thin so maybe we can spend a bit of time on that.

Bill Smith: Okay. So I just went through, or in listening to this I pulled up the executive summary which I'm familiar with. But in the findings section, and I wrote this right after Marina del Rey actually, on the plane from there to Washington – much of it, cleaned it up a little bit. But I talked about sort of in big chunks the fact that there is no policy, so that was our first thing.

It then moves into "Well, but even without a policy there's a whole bunch of work that's gone on," which I think is potentially… I don't know if we want a recommendation in that area but in essence there's been a lot of wheels spinning over the years, much of it good but not a lot has happened. Then international domain names come in; I mention that. Privacy/proxy is another big item and then it goes into really cyber security, cybercrime, which would be law enforcement going back into the AOC.

I'm just wondering if we could use sort of that outline?

Emily Taylor: That's good. Do you mention accuracy?

Bill Smith: That's in the criminal section, the cybercrime section. I believe it's in there.

Emily Taylor: Okay. Yeah, I found that useful. Susan?

Susan Kawaguchi: So along with accuracy is the validation. I mean we can call for accuracy but if we don't have a validation process or a policy and that also can be in implementation. But I think we also need to focus on validation, too.

Emily Taylor: I think that the concept of validation is fine; improving accuracy. Or actually we had sort of an insight at the end of Marina del Rey that the really worst stuff is the total unreachables, yeah. So we've got a choice and we've sort of gone through this in the proxy/privacy thing before you arrived, of let's kind of get in our helicopter and try and be a bit further above the fray. And we're not making policy – we're commenting on it.

                               And one thing might be to say "Well, we want to see statistically measurable improvement in accuracy over the next three to five years, and by this we actually mean a reduction in the unreachables. Guys, how you do that is up to you – this is your task now. If it's not done then…" what? I don't want to do a sort

of "Let's all hold hands and sit in a room forever and just be friends." What happens if these targets are not met?

I want to try to free ourselves from the detail at this point and get into an area where we may… But I can see from your face that you don't want to do something that's so generalized that it's possible to just wriggle out of.

Susan Kawaguchi: I do think… And maybe we do this not as part of the report but as the appendix, is there's some viable processes out there right now that they could be using, that are in use by registrars to validate for billing purposes. So maybe we just cite those in the appendix but I think we really should hold ICANN to some stringent numbers, whether it's in a two- to three-year period or whenever the next review team is put in place – at least a 50% improvement, a 50% accuracy rate of the WHOIS record.

Emily Taylor: Okay, so let's actually try to… What do you mean by 50% accuracy? Let's do school grades here. Are you talking about A++ accuracy or are you talking about G- accuracy but it's okay because you can get in touch with them? What could you live with?

Susan Kawaguchi: What could I live with? I could live with the actual registrant being accurate and validated, and I could live with the admin

contact information completely being validated and accurate; if the technical and if the address even of the registrant than I could live with that. So I don't know how we can really line that out but it just seems ridiculous that registrations are going on with AAAA or 123 Main Street, and I at some point sent around something I found in NSI's registrar agreement where they use – and it's used in Europe, it's used in the US, I'm assuming it's used elsewhere – where they have a database that they can validate against.

And NSI uses that, will in their registrar agreement – I don't have the language in my head right now, but they actually say in the agreement "We will bill you and contact you at this contact that we validated through this specific process, and not be bound to the information in the WHOIS record actually," NSI. So I mean there's a standard out there, and if that could clean up 50% of the addresses, for example – it's just addresses, it's not going to do the email.

So there are mechanisms out there that could be put in place and just filling in, requiring fields be filled in. So I'm getting into the weeds but I think we could say "This amount of the information must be accurate in 50% of the registrations in two years."

Emily Taylor: Bill?

Bill Smith:

Yeah, and whether we… I agree we should give them some strong targets in that area, and we can give suggestions – either what NSI does. I happen to use Vonage for my home phone and when I want to move the phone from one device to another, from my Northern California home to my Southern California home, I have to input the E911 information and it does address validation. And it tells me "You entered this, here's what we found. Do you want to revert back to what you entered or is this the correct address?" And basically the only thing for me that ever changes is it does the zip plus four on it – yeah, that's it.

But they're doing in real time some form of validation, and to me we ought to be suggesting. We should say "Either get off of this, the information has to be accurate, or start doing some things that make it accurate such as…" and then list some things perhaps.

Emily Taylor:

Kathy?

Kathy Kleiman:

Two things, one that I was talking to Cheryl but let me respond to what's going on. Maybe I missed something somewhere but both of you are experts in the field. Are we talking about validation techniques that are on a record that have been submitted to us, that have been shared with us because I'm afraid I don't know what you're talking about in terms of what… Am I missing a section of the-

Emily Taylor: There is reference in the draft report about good practice that is commonly used to validate addresses at the point of entry. There is text in there.

Kathy Kleiman: Are we talking about the specifics?

Emily Taylor: The specifics, I think we're just sharing experiences at the moment; we're sort of talking around it.

Bill Smith: But this is common practice around the industry.

Emily Taylor: I think that where… My issue, Susan, with a 50% accuracy target is that we should be trying to tie into metrics that are already familiar to and used by the ICANN community. And I think our data accuracy studies or we've got… I don't want to push this too far so I'm just going to say it again and that's it – I promise I will shut up then. I think that the one statistic that should be tackled over the next period is the unreachables, and that should be reduced by at least 50%. So we should be looking at no more than 10% unreachables within two years or something like that.

How they do that, whether they…   The thing that occurred to me reading through this as I was preparing is that in fact there's probably going to be a lot of validation that's just been done but isn't required; that in a way the industry has fallen out of step with a lot of good practice in online transactions because this is part of the "Age of the WHOIS" protocol and the WHOIS service. So this might be an emphasis.

But I don't want to get into the detail about how to do it. We're not best placed; we're not working in these environments.   But what we can do is set our expectations about the improvements that are expected. Seth?

Seth Reiss: Yeah, I'm wondering if 50% would be sending the wrong message. Because it's kind of like saying "It's okay if 50% of the people lie."

Emily Taylor: No, I think it's a smart… What we're trying to do is say we should create our smart targets so that we are looking for a 10% improvement, or an improvement of to whatever you say. I take your point, of course.

Seth Reiss: But are we sure it's unrealistic to not expect something more? I mean we know ICANN works slowly but this is, we're just talking about data accuracy – we're not talking about making policy. So

you know, maybe 50% is the minimum that would be acceptable but 95% should be the target. I mean why not have 95% accuracy in two years?

Emily Taylor: Well, actually this is probably an area where we don't have to be worried about making policy. The contract states that there's a requirement for accuracy. Sorry, Wilfried.

Wilfried Woeber: That's okay, that's okay. The techy background coming back for a minute: I think we should not get entangled into any absolute figures or absolute numbers. I think we do agree that ICANN is not going to achieve a 100% accuracy level. What we I think do expect ICANN to do is take the appropriate measures to go for the easy targets first, do that aggressively and then based on this very fundamental improvement, I hope they can take additional steps to deal with the remaining sort of wrong registrations.

So from my mathematician's point of view we are probably going to see some sort of curve with a very long tail, and yeah, I hope so. But what I would like to see is a very steep start. So my thinking is could we try to mandate ICANN to achieve a target of reducing the wrong ones by half within twelve months and doing the remaining thing a year after? For example, within two years come back with a snapshot report about the success, and if it turns out that this is too aggressive resource-wise then the community has a basis to reconsider.

And on the other hand, we can sort of do a little bit of pushing like "Okay, this is the recommendation – try to achieve this goal. And if you can't you should rather come back with very good reasons why you've failed."

Emily Taylor: So I've got Kathy and Bill, Kathy…

Bill Smith: Just quickly, Wilfried's timeline aligns very nicely with when the next iteration of this group will be meeting. And I think we can make a comment about that, that the next Review Team should see if in fact there has been significant improvement.

Emily Taylor: Kathy?

Kathy Kleiman: I just lost one of my thoughts so it probably wasn't that important. But Susan and I were talking over here about how to link the recommendation to things we have in the record, and just one idea that we had was opening the "Consumer Trust" section with some of these bad records that we've seen, that it's just so clear on their face that there's no useful information, no findable information. And then how we do the metrics is interesting. I wanted to share that we have an expert in the room, and I don't know if we want to

ask her to join us for a little bit; if so it would be under Chatham House rules, having just talked with her.

Cheryl Langdon-Orr is with us. She was on the Accountability and Transparency Review Team and was a pivotal member of that, and I was thinking as we were discussing how we put teeth on this. We set out an expectation, we set out a request for a metric or next steps, how do we… And then as Emily keeps saying, well, and if they don't do it then what? And I didn't ask Cheryl the question but I asked her if she might take a few minutes and talk with us about how the Accountability and Transparency Review Team thought about the "and what if you don't do it?" Would anybody like her to come and talk with us?

Bill Smith: I'm fine with that as a practical matter if we're going into Chatham House. Sorry?

[background conversation]

Bill Smith: If we go into Chatham House we have to stop the recording.

Emily Taylor: But we can keep Michael on.

Olof Nordling: Michael has left for a while at least.

Kathy Kleiman: Is anyone else online? Any general observers online?

Olof Nordling: We have observers on the chat room.

Emily Taylor: Before we do that, and I think that would be very valuable, Cheryl,
                           if you'll do that – that would be immensely useful. What I'd like
                           to do is while it's still imprinted on our minds, Wilfried has made a
                           very concrete and practical suggestion for how we might frame a
                           recommendation on data accuracy, which I think has potentially
                           got legs. And I'd quite like to capture it and get reactions to it
                           before we move on to the next thing if that's okay.

                           So can you remember what you said?

Wilfried Woeber: I think so, let's try. My proposal was to not go into absolute
                           numbers or absolute figures but just leave it to ICANN sort of to
                           determine the starting point because I think it's pretty widely
                           known what the level of inaccuracy is. We don't have any… Do
                           we have any better figures than ICANN would have? I don't think
                           so.

Emily Taylor:	I think rather than start a wild goose chase about what the figures are we should say "Well, that's the study and these are the figures." If there's actually already an easy win for them and they've already improved since January 2010, then great – that's part of the targetology that will happen, isn't it? We met our target.
Wilfried Woeber:	So my proposal would be to mandate ICANN to reduce the number of incorrect registrations by 50%, by one-half, within the first twelve months; and to do the same, sort of the remaining 50%, to cut that in half again during the next twelve months' period. So this should give them, and I really wouldn't care whether they do 30% during the first year and 60% during the second year, but it would give us sort of a checkpoint in between about two years from the beginning of this effort. And by then the number of incorrect registrations should be reduced by about three-quarters.
	And then I am fine with dealing with the long tail of the whole thing and I would also, and as Bill already has pointed out, this was something I did not put into words – it would also give a checkpoint well before the next round of review, so it would give the community and ICANN a chance, an opportunity to review the situation before they get beaten up again formally.
Emily Taylor:	Thank you. Kathy?

Kathy Kleiman: Okay, so to reduce the number of incorrect registrations by 50% within twelve months, then cut it in half in the next twelve months. Going back to one of those key terms – "incorrect registrations" – can we put in Emily's term of "unreachable"?   "Reduce the number of unreachable registrations," because that at least gives us a definition.

Bill Smith: I think we need to refer back to the study that was done, the ICANN-sponsored study.

Emily Taylor: They have a term for it, yeah.

Bill Smith: There is a term in there and that's what we, right.

Emily Taylor: So it's very clear what we're talking about.

Bill Smith: Yeah.

Susan Kawaguchi: But in that study they focused on the phone number and in practicality, in reality that's just not even usable. I mean you don't contact registrants through their phone number.

Bill Smith: I agree but at least there's something we can point to definitionally, and we can say that phone number we don't think may be the correct metric. But clearly that report, in my mind, clearly says a significant proportion of registered domain names, they are unreachable. And that's the thing I think we are suggesting, is cut that in half somehow.

Emily Taylor: Lutz?

Lutz Donnerhacke: I'd like to underline that we put it on the ICANN side and that it defines itself, that what we define as an incorrect registration data, they have a study of what they consider is not correct and we recommend them to cut these numbers down however they measure them.

Emily Taylor: Thank you. So I think we're all kind of in agreement, which is that I liked your preamble as well, Wilfried, which is that we expect ICANN to take appropriate measures going for easy targets first but aggressively; and that we expect a reduction by half of the

number of unreachable, incorrect, whatever the term used in the study is within twelve months, reduced by half again within the following twelve months. And there was also something which has slipped out which was another study on data accuracy well before the next WHOIS Review Team is formed so that we can measure objectively according to the same parameters over time.

Kathy Kleiman: Great. Should we put that into our master document? Sorry, just because it is. I mean at least we're walking away with something that-

Emily Taylor: I'm quite pleased with it. I think that's good. Bill?

Bill Smith: And there's an idea here: if there's some way that ICANN, whether it's through Compliance or some other mechanism could sort of do a statistical sample of registrations so that we don't have to commission quarter of a million dollar studies to figure this out every two years – that would be useful, I think. So I don't know what that would look like but I would think there's a way to do some kind of sample of registrants to figure out whether accuracy has improved or not.

Emily Taylor:	Well, I think that's a fair point, Bill, but in the end that's not our bag, is it? The reason why I think ICANN might be going for these sorts of study approaches is because they are done impartially by people who don't have skin in the game, so the measurements have to have a level of acceptability to stakeholders. Bill?
Bill Smith:	I'm fine if an outside agency does it but they shouldn't take twelve to eighteen months to run. It should be possible to get numbers in real time, right?
Kathy Kleiman:	I think that's too detailed for us to be. I wanted to help Alice if that's okay. Alice, I wrote down Wilfried's words for the recommendation and then I know Emily had more. Right, you've got it – "Reduce the number of unreachable registrations…" No, I guess you've got it. "By 50%," and my guess is we're going to hear from people about that percentage, but "by 50% within twelve months; and to cut in half…" Well, we're going to hear about implementation issues. Just know we're going to hear from the contracted parties about implementation issues.

[background conversation]

Kathy Kleiman:	"…cut in half over the next twelve months." I think we said "Take appropriate measures for going after the easy targets first." I don't know if we want to include that but we should probably keep it. And what was the last piece of it? "Allow time for another study of data accuracy prior to the next WHOIS, to be completed before the next WHOIS Review Team starts."
Wilfried Woeber:	May we suggest that we swap the sequence? I think the message or the fundamental message is that we would like to see the inaccuracy reduced by 50% and whether they go for the easy targets first or whether they do something else is more like a secondary thing. So I'd like to put that sort of after the specification of the goal. But it's very nice to include that as a suggestion, like instead of coming up with a study on how to approach the problem we can just tell them "Well, do something which is reasonable."
Kathy Kleiman:	Right, so more under the findings.

[break in audio]

Emily Taylor:	If you just put a "follow-up data accuracy study," so we sort of make it clear what we're talking about, and then we can sort of reference the previous one if we want.

Wilfried Woeber:	I think this may run against Bill's suggestion to save money if we hardwire this into the recommendation, that they go out for another study. I'd rather put it into some sort of words like "24 months after the start of this exercise, please come back with a snapshot report," because otherwise they would have to start the report at the very beginning to have it ready in 24 months. So I think we might sort of mix up the result with the mechanism and the measurement, I don't know.

Emily Taylor:	I think this is a quite helpful train of thought actually to really focus on the results that we want and not clutter our minds and clutter the recommendations with the how to do it.

Kathy Kleiman:	We might keep all the ideas in here so that we don't lose something important – Bill's idea, Wilfried's idea. And then tomorrow we'll decide does it go into the recommendation or does it go into the findings and the background material of useful guidance: "Since we've gone through this process we'll share with you how we think you might approach it, but we're not mandating it. We're mandating the recommendation and its goals."

Bill Smith:	Right, I think for me one of the things, I think it was mentioned earlier on Compliance – that they should be more proactive than reactive. This is the same kind of thing here, is think about "Okay, you need to do this in 24 months. Now how can you do it?" Yeah, you could do the usual "Let's go do a study and 18 months later we'll have the answer," or spend six months finding a mechanism that will on a regular basis report this back so you know what the health of the system is.
Emily Taylor:	Thank you. Wilfried, looking at the wording as we have it on the screen, you have a suggestion for improving "a follow-up data accuracy study." Can you just help Alice with that wording? And then what I'd like to do is to go into the Chatham House bit and talk about-
Wilfried Woeber:	Yeah, my point was about not to use the explicit wording of "another study" but rather to ask ICANN to come back after the 24 months into this project with a status report. I would not mind having this report generated inside ICANN or having the report generated by a third party that is seen as being neutral, because I do not believe that ICANN is going to lie to the community. So I'm just as fine when they say "Okay, this is when we started out – it's the twelve-month snapshot. This is the 24 months, this is

where we are at the moment." But otherwise I'm fine with this wording, just as well if there sort of is anyone who wants to keep it – fine with me.

Kathy Kleiman: Right, because the period that we need the report is 36 months, right, because it's three years till the next WHOIS Review Team, right?

Wilfried Woeber: No, my line of thinking here is that these periods are probably out of synch because I don't know exactly when the three-year period starts for setting up the next Review Team; whether this is three years after the end of the mandate of ours or whether it is three years after the beginning of our exercise.

Bill Smith: I think it's every three.

Wilfried Woeber: Every three, so as we took about a year to finish our assignment, the 24 months is probably approximately at the inclination of the next round of this Review Team, and I'd like to sort of have them warned right now that before this review exercise starts over again they should come back with tangible, reliable figures because then the next team can either decide to come up with another set of recommendations, or we can at that point in time go back to the

Board of Directors; or this team can go back into ICANN hierarchy and ask for more resources or do whatever is appropriate. That was my line of thinking on why I thought twelve months plus twelve months gets us sort of roughly synched up with the activities.

Kathy Kleiman: And along those lines, I was thinking we might want to create a black box on advice for the next WHOIS Review Team, lessons we learned that we want to share with you not on the public record, but we want to share a note for the next Chairman.

Emily Taylor: I think that's very much the thinking that is circulating at the moment between us all.

Bill Smith: Suggestion perhaps on the third point, and that would be that the recommendation is that ICANN be able to produce such an accuracy report on at least an annual basis. But basically every year, no less than twelve months apart, there is a report.

Emily Taylor: Yeah, I think that probably we might well hive off some of this stuff into kind of what I'm now calling our roadmap, is what we're expecting by way of follow-up between now and the next WHOIS

Review. And I think that we are expecting at least annual reports on progress against all of the recommendations so with evidence.

I think on that point, that's nice work. It's very much in line with the recommendations on accuracy that we were hammering out in Marina del Rey but it's more condensed. Shall we now hear from Cheryl, invoke the Chatham House, shut off the recording, ask our observers kindly to leave us for a while, or observer and do that? And then I think we'll probably have done a useful job today. We can then, after we've heard from Cheryl go back to our list and see what our categories are and see whether we can finish that by the end of the day. Okay?

[background conversation]

[break]

Emily Taylor: And perhaps sort of developing that – there's obvious placeholders for communication in the text in various ways, but one of the things that occurs to me is that WHOIS is probably one of the major issues that is relevant across the community. It's relevant to governments, it's relevant to business, it's relevant to the industry and yet the policy for it has been made in a silo. And so I think sort of the future WHOIS policy development work which we're recommending ought to be a cross-community effort and involve

all relevant stakeholders rather than be you know, plunged down into a silo.

Let me just see what other…   We've got thick/thin, we've got getting a WHOIS policy, okay.

[background conversation]

Emily Taylor: We've got privacy and proxy, that one – yep.

[break in audio]

Seth Reiss: So all of those 75 will fit somewhere in the three to five?

Emily Taylor: We've got IDNs in there, have we?   And have we got standardizing the output and reviewing, because that was something that we keep discussing, agreeing on and then forgetting.

[break in audio]

EN

Kathy Kleiman: Are we going to make proxy/privacy number five for now because it's its own kind of category? We've got five.

[background conversation]

Bill Smith: One of the things that struck me in doing some of the review and the writing that I did, and I think it's mentioned in there – I'm having a large wave of jetlag hitting me right now – is there is no one inside ICANN the corporation, ICANN the organization that is responsible for WHOIS. It's just kind of always talked about, it's there; we talk to the Compliance Team because they're the nominal home for it but no one owns it. There's no place to go when there's a problem or a suggestion – it just gets talked about. I don't know if that's something we want to put up as a big recommendation, but from my perspective I think it's part of the problem.

Emily Taylor: I think there's lots about it. I think we've just been talking about it. It's make this an organizational priority, a strategic priority to have resolved, and then we can put in various suggestions about how that might be achieved, like having a single person at a senior level reporting into the chief executive who is tasked with it. It might be putting enough resources into Compliance so that it is effective and can be proactive.

But I think that the higher level thing is about making this an organizational, strategic priority.

Susan Kawaguchi: So, I completely agree with that and I think we really saw that in the Compliance meeting we had, because they just kept saying "We will make people comply when we have some rule that we can hang our hat on," but for the most part they just sort of sat back and said "Well, we have no, there's nothing in the RAA, there's nothing in the registrant agreement, that ICANN does not really have an agreement with the registrants."   And so if someone doesn't take responsibility with it at a higher level to say "Okay, these are the things we need to do to fix this problem and to let Compliance do their job," then we'll be here again.

A different point, if I don't…

Emily Taylor: Just pause.   Can we capture that… I don't know quite where, maybe on implementation at the top.   It's about, just under "Implementation."

Bill Smith: I'd classify it as ownership or something like that.

Emily Taylor: Organizational priority.

Bill Smith: Right, that's fine.

Emily Taylor: "Strategic priority," at the top, "Board strategic priority," and then…

Bill Smith: Well to me, the point is either do something about it or stop thinking about it, right? I'm not going to suggest but basically…

Susan Kawaguchi: That makes me shudder, Bill.

Bill Smith: I know, but it's like spend all this time on it… Right.

[background conversation]

Kathy Kleiman: It's true but we found out also why this is. So what I like is it's kind of lifting the organization or parts of the organization above some of the issues we've been arguing about for a long time and giving a big picture, and so I think it was brilliant of the AOC to put this together.

Emily Taylor:	What about actually… I've just looked at the next heading along, where we've got "Compliance resources," why don't we change "Compliance resources" to "Strategic priority" or something and make this a whole heading in its own right? Under that will flow sort of senior person with responsibility or Board responsibility, Compliance resources…. Because once it's a strategic priority then it should flow through all of the organizational planning, right? And we want to see it in the strategic plan; we want to see the resource allocations for it and we want to see the budget in part of our follow-up work.
Bill Smith:	Yeah, I like that and not because Compliance isn't doing… Compliance is doing what they're supposed to do, I believe – they're doing contract compliance. But they are the only point really inside the organization that does WHOIS and that's a mistake. That's a failing in my opinion.
Kathy Kleiman:	Can we flesh that out? So Board/staff…what? I know there's some ideas flowing around – "responsibility" and oversight?
Emily Taylor:	…part of the strategic plan, because ICANN has a strategic plan, doesn't it? Allocation of budget and planning or allocation of budget and something or other that sounds management-y.

Kathy Kleiman: "Cross-community implementation?"

Emily Taylor: I would say "cross-community" goes up into our policy, find a policy and this is not just ask someone in some deep, deep, deep GNSO working group somewhere in outer space or Pluto to come up with this; this is cross-community. It's got to involve all relevant stakeholders within ICANN and if they're not currently within the ICANN structure like law enforcement, you need to reach out to them.

Kathy Kleiman: Cross-community…   No, no, no – this was right, cross-community whatever…   Sure.   And then under "Communication," cross-community outreach for lots of things. Should we add "including communities outside of ICANN with specific interest in the issue?" It's beginning to look good, Madame Chair.

[break in audio]

Kathy Kleiman: Under "Proxy/Privacy" should we include some of the reveal, relay, just kind of points of things that we-

EN

Emily Taylor: There's one recommendation on proxy/privacy which is Paragraph 41, and it's broken out… There's no page numbers so it's under the topic called "WHOIS Data Accuracy…." No, there's a big "C" somewhere called "Data Accessibility and Privacy," and then Paragraph 41 has got A, B, C, D, and E.

I think that we're moving away from the idea of accreditation of proxy service providers because this is a level of detail we're not going to get into, but I think some of the concepts in the A, B, C, D, and E are useful, which are standardized relay and reveal processes and timeframes, guidance on the appropriate level of publicly-available information on the registrant, maintenance of a dedicated abuse point of contact, public disclosure of contact details… So these are suggested best practice guidelines. It's too detailed for the new us, which is not detailed, but I think these are quite good (laughing).

These might be quite good thoughts to get our minds back into proxy/privacy for what we could be dealing with on the level of recommendations here.

Bill Smith: I guess I would look and say either there need to be specific policies with respect to proxy and privacy or whatever, or if they're mentioned in the RAA these need to be defined terms. And so maybe that's what it is, is "Define these things." I don't think you were here, Susan, but if you look at the RAA it talks

about privacy and proxy services and they're always combined. And there's no definition of either of them.

[background conversation]

Emily Taylor: I think just a brutal summary of where we got to on proxy/privacy before you joined was we don't want to create the policy on this but we could do…   What did we say?   The contractual regime has the following implications on proxy/privacy: the proxies are the registrants so they therefore bear responsibility, and anything that is, if there is not effective relay or reveal then they will take the wrap, right?   And the registration becomes subject to cancellation – that is what the contract says, isn't it?

Susan Kawaguchi: Except the contract also gives them a five-day, which I don't understand how ICANN can sort of say "Oh no, you're not responsible if you do this," because I would hold a proxy registration company responsible for all content from day one from my perspective, from an enforcement perspective.   So if we're going to back off and not give specific recommendations, somewhere I think we need to address what is in the RAA now or just ask ICANN to review that. I'll have to find it, it's like 5.6 or something…

Emily Taylor:	Yeah, can you help us with the detail on that because that's a new one for me?
Susan Kawaguchi:	Yeah, well it's not when they push back on you. Well, it's not very clear language so let me find it. We can move on, but I'm just saying that… Yeah, so do I and I just need to find it. I had actually started a… Maybe it's not 5.6

[background conversation]

Emily Taylor:	I think let's all think about this overnight. We've got to reach consensus on our recommendations on proxy/privacy. Going down the road we were going down in Marina del Rey was going to end in tears because we were first of all getting to the edges of defining policy, trying to solve the problem in the rooms; and so is there a better way of doing it? Is there a sort of "Let's give our analysis on what…"
	So "If there's no answer on proxy/privacy we go back to what's in the contract, please." Do we say that or do we have some sort of other solution? Is what's in the contract workable?
Kathy Kleiman:	So just going back to my notes about the discussion which is when I walked in, in the middle of the proxy/privacy discussion, it was

about defining the terms "proxy," "privacy," "reveal" "relay."   I believe I'm just paraphrasing what Bill was saying when I came in – define the expectations of what does "reveal," which I believe, and Bill correct me if I'm wrong, is what does "reveal" mean, what does "relay" mean?

And at the time I walked in I kind of jumped in in my usual crazy way and said that some of this thinking had actually been done with the four WHOIS studies being done by the GNSO. So there might be terms we can pull from that because there wasn't community outreach.

And then the final thing is set out what happens if the expectations aren't met, which is one of the reasons Cheryl came in to talk to us and I think that's going to be a very valuable part of proxy/privacy.

Susan Kawaguchi: Holding ICANN's feet to the fire on proxy is going to be very difficult.

Emily Taylor: Or just sort of in a way, what we've done on data accuracy is to say "Well, we expect this improvement." So what improvement are we expecting on privacy and proxy? And I think that we're not sure to feedback evidence on where this is getting on people's nerves. We've got a lot…   The sections that Peter has drafted, going through the feedback, it's very, very clear on where people

are having difficulties. I don't see any feedback saying "It's all wonderful and it's all working perfectly."

So we've got to say "These are the issues that people are raising on proxy/privacy – we need to have your solution on this within twelve months. And it's got to be cross-community developed, it's got to be blah, blah, blah, and if that hasn't happened then you've got to get back to…" what? These get canceled? Throw people in jail? What do you want to do?

Kathy Kleiman: Bring them before a public forum – no, just kidding. Can we put some of this into just under #5 so people tomorrow have the benefit of the thinking today? Let me start with the three bullet points in my notes under "Proxy/Privacy," under the "Clear, concise and communicated: A.) define the terms including…." And let's just put it in so they have it tomorrow: "…including proxy, privacy, reveal and relay"; B.) define the expectations, whatever we choose that to be; and C.) set out what happens if the expectations aren't met.

[background conversation]

Bill Smith: Ours – whatever the, yeah. So as Wilfried suggested for the accuracy it would be good if we could do a similar thing for this and say "Within such and such a time do blah, blah, blah." I

actually think this is a place potentially to bring in the comment about, that basically what needs to be done here is bigger than just ICANN; or things that go on in privacy and proxy services has an impact to the domain name system, to the internet – the inter-web, exactly. And ICANN has a responsibility to make sure there isn't damage, broad-scale damage.

And there is at least some evidence that privacy and proxy services are causing harm, and they should stop that. And if they can't clean up their act quickly then they should get rid of it, basically to stop the harm.

Emily Taylor: I think that's something that we've got quite clearly, and as I was reading the draft report I thought that we ought to be sharing the feedback we've got on privacy and proxy with the people who've been tasked to study it, because otherwise it's just going to languish and sit there.   There's some very rich and detailed feedback that we've got from people and that can be a resource for the people who are studying this in detail. And we can offer to meet with them if that's going to be helpful.

Susan Kawaguchi: I don't want to derail this discussion but I have another point that I want, so I'm not sure if we're done with privacy…

Emily Taylor: Well, does anybody else want to come in on proxy/privacy?

| Kathy Kleiman: | I'm just going to go outside and let people know if there's anybody out there that we're open again. |

| Emily Taylor: | Okay, sure. |

| Susan Kawaguchi: | So I think this is in implementation and it speaks completely to the accuracy, but currently in the way you can register a domain name – A.) you can put in inaccurate information but you can also put in my information. There's no validation point, and I don't think there's been a study but every brand owner I talk to has the problem with domain registrations being registered in the brand's name almost all the way down to just the servers being different, or servers and email being different.

And I've sort of broached this subject in this group before, but I've done more outreach within brand owners – everyone faces that, along with domains by proxy because people want a proxy registration but don't want to pay for it. So James was talking about that. So somewhere in this we should recommend that you only can register in your own company or individual name and there should be a validation point for that. And if there isn't, all this accuracy will never happen. |

Emily Taylor:	Yeah, you can either validate before or after the fact. I think that immediately… I know I did a big lecture to everybody about not solutioneering, so I'm going to solutioneer here, about the mechanism I'd immediately think of in that is that you put a warranty into the registrant's contract with the registrar to say "I am the person I've said I am and I promise that the information I've given is true, and if it's not then you can cancel the domain name." Yeah, so you've just got the contractual mechanism.

What we're hearing again, and again, and again is "There is a contractual mechanism to delete these names but no one ever does it." |
| Susan Kawaguchi: | I completely agree, and what I'm concerned with here is that we focus on accuracy, accuracy, accuracy and have some automatic validation points or systems to validate that accuracy. And they go out and they validate that "Yes, this is Facebook's information but we didn't register the domain." And that is a very dangerous domain registration because they're not using our information for anything but fraud. So I mean this is going to hit that high level of "Let's protect that internet user." |
| Emily Taylor: | And I think that if we want to navigate around the inevitable, the overspill of that is of course "Well, if I don't want to use my given name or my blah, blah, blah, I have a right not to do it." It's okay. You can call yourselves myjeans or anything you want to as long |

as you're not impersonating someone else and deceiving.   The issue that you're talking about here is one of deception and impersonation, and I don't think even the most radical privacy advocate would say that it is a right to impersonate others and confuse consumers.

So it's not saying that you've got…   You're not eroding the legitimate interest to hide your identity for legitimate purposes, but when I'm pretending to be Susan Kawaguchi around the place and using your credit card I think I would expect someone to complain.

Susan Kawaguchi: We have no…   We just rely on the registrars being nice and turning the domain over – not deleting it. They won't delete it.

Emily Taylor: Where would you recommend we capture that and how? Wilfried?

Wilfried Woeber: I do see your problem. I agree there is a problem but taking a step back, I'm wondering whether this is a problem that is specific to WHOIS or to domain registrations, because sort of the same risk or the same mechanisms are available on quite a set of different planes and with different services. Like you can easily register in my name on Facebook without me knowing and you can probably register Bill on LinkedIn unless he has done that already himself.

So where I want to get at is actually that you are implying a little bit more than some of us when you use the term "correctness" because you also imply the legitimate representation of this entity. And this is, my current feeling is this is more like a legal problem than a problem of correctness, because if Bill would find out about my home address and he would register me on Facebook and give my address, the data would be correct because I can be reached at that postal address. Still, he would not have my implicit or explicit permission to trade in my name.

So I'm wondering.   I might be up in the clouds here but I'm wondering whether this is something that should go-

Emily Taylor: It's good.

Wilfried Woeber: This particular aspect, whether this particular aspect should go into this sort of headline of "Correctness."

Emily Taylor: It's something that we've kind of acknowledged from time to time but never really delved into, and it's one of my kind of overarching comments on the report at the moment, is we don't explore what we mean by "accuracy."   It might be that we can go back to the study because they actually split it out into different categories, but I think that there is another aspect as well of impersonation. Bill?

Bill Smith: This is really fraud, right, but it's something we're seeing. You
                               see it, we see it – it's a fraudulent registration. So the accuracy
                               tests will in a sense pass, but there still needs to be action. It's not
                               enough just do to accuracy. There's validation; there needs to be
                               another step or something else needs to be taken. And I guess the
                               other thing is that registrars need to take faster action on these
                               things when uncovered.

Emily Taylor: So you're basically saying when it's fraudulent you need to bump
                               it right up the priority list and get rid of it quickly.

Susan Kawaguchi: Right.

Emily Taylor: Anyone disagree with that?

Kathy Kleiman: But it's an enormous legal issue because I mean, even in the law
                               enforcement community – let's just shift analogies, so not just to
                               Facebook and PayPal having a domain name registered
                               fraudulently but a question that we've debated over the last dozen
                               years is that when law enforcement calls to say that something is
                               going on with the domain name how do we know? I mean we

haven't even figured out how to know which law enforcement is calling and whether it's really law enforcement.

So let me just share, once we get into… What we've agreed about on the WHOIS is that you can tell upfront if you have all "A's" down, you've entered all "A's." That's clearly on its face not valid. But how does a registrar or registry, particularly a registrar know when Facebook or EBay is calling versus someone else calling to… Just again, my perspective on the world is that a lot of this stuff has been gamed over the years, so if someone wants a domain name dropped or they want it transferred to them, they'll call and say "This is fraudulent data," and the person themselves is committing a fraud. So this begins to rise up the level of complicated stuff.

Emily Taylor: Okay, I've got Wilfried and then Seth.

Susan Kawaguchi: And put me in on the end.

[background conversation]

Susan Kawaguchi: I totally agree with that and the system's definitely been gamed, and we've lost domain names in the early years from people just saying "I am Susan Kawaguchi and I want this done now." Or I

have gone around systems by actually representing myself and making them… I hate it when a registrar goes out of process but I'm getting off the subject here.

So but if we do not bring this to the legitimate representation – I like those two terms that you used – as an issue for ICANN… ICANN Compliance when we were there were stunned, absolutely stunned that we had this problem because they don't see these problems. The community sees these problems but they don't get brought up to that level. So if we do not include some sort of issue, whether it be in the appendix or be in the recommendation, but if they do not look at this and only validate for accurate data this problem will continue. So there's no mechanism right now.

Emily Taylor: The queue is Wilfried, Seth, Kathy, Bill… No, you're not on? So Wilfried, Kathy, Bill.

Wilfried Woeber: So again, I agree with your assessment that there is a problem. I'm not convinced that it's ICANN job sitting at this particular position where we are placed, that it's ICANN's job or the Compliance Department's job to get entangled in these sort of edge problems, legal problems, because I don't see any mosquito. I don't see any way or any mechanism that would enable them to do anything on a global scale. I mean you do? Okay, tell me.

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[background conversation]

[break in audio]

Emily Taylor: If I've understood you correctly it's basically to say we understand, this is a very fair point that you're making. We've got to make provisions, allowance for due process, for fairness, review, whatever you want to do to avoid the gaming; but not to say "Well, there's no point in doing anything because it could be gamed."

Okay, I've got Bill and then Lutz.

Bill Smith: I was going to suggest that one way on the gaming issue is when Susan Kawaguchi calls and claims to be, or when somebody calls claiming to be Susan from Facebook, that the simple operational thing is that the person receiving that phone call hangs up and calls Susan Kawaguchi up through using WHOIS.

[background conversation]

Bill Smith: Sorry?

Kathy Kleiman: I said there's fraudulent entries about…

Bill Smith: But not a fraudulent entry for Facebook. "I am Susan Kawaguchi from Facebook.com and someone has fraudulently registered a domain name using my address and contact information. Please do something about that." And the reply is "Okay, I will call you back, I will contact you using the information that is in WHOIS for your registration, not the one in question." That is…

[background conversation]

Bill Smith: Okay, so basically it's saying "Alright, we're going to use the information that's in WHOIS and it's up to Susan at Facebook to do registry lock and other things to prevent her information from being messed up." But you don't accept… The gaming that goes on is social engineering, okay? We're not going to be able to get rid of all of it, but the one where they're saying "I'm so and so and I want this taken over," well, you have to prove who you are. The way you do that is you do something out of band. You get off of that call and go to a different-

[break in audio]

Emily Taylor: Okay, Lutz.

Lutz Donnerhacke: If I understand correctly – I do not know if I understand anything correctly – the problem is that there are information in WHOIS which can't be verified by ICANN in order to check if the information is correct or not. There simply is no possibility to check if it's the correct information even in the syntactical sense or in the semantic sense that it's the right person which claims to be the person. So I wonder if ICANN has the opportunity to check the information that can be checked.

So we are talking about business. If somebody, I guess the domain name or register name somewhere, in a resource somewhere, he or she needs to have a contractual relationship with somebody. So these contractual relationships have to be codified in some place and there, before some business makes a contractual relationship they are checking the identity of the contractors. That's quite normal.

So if we are not focusing on the very edge information but on the contracts, if we could have information in the service which is verifiable, which can be checked and which can be proved… Of course we are getting a lot of problems with we do not get the final edge information in one step because we have to go down all the contracts, but following the contracts we know who to sue for wrong information. And we come to an end instead of saying

"Ooh, we have wrong information here, we can't do anything." It's arguing for a thin WHOIS approach.

Susan Kawaguchi: I'd like to comment on your stance. I agree with you. We can't have ICANN responsible for everything, but if we don't at least identify this and point it out somewhere in our study there's nothing that can be done to keep… I keep reiterating the same point. My information in a fraudulent registration is accurate for the most part, amazingly accurate, scarily accurate. But I don't think ICANN understands all the issues that are in a WHOIS record, and so if we just simply point it out…

And maybe it doesn't go in these recommendations. I'm fine with it not being in the recommendation but I think it should be somewhere in the report and under "Accuracy," that yes, even if it's validated as accurate… And we have to, as a company that's part of my job to let ICANN know; but even when I let ICANN Compliance know they can't do anything – they're just like…

Emily Taylor: I mean there's one level where it's fraud; there's another level where you could say "Well, whatever's in the database is the records, so if it says it's Facebook's it's yours."

Susan Kawaguchi: And some registrars will immediately hand it over. But those other 900 are like "Screw you." And so things go on.

Emily Taylor: What the real problem is, is the cooperation between business and registrars, right?

Susan Kawaguchi: No, well yes but no. In this case, my real problem is allowing accurate data that is not legitimately your data to be put in a WHOIS record. For example, from the legal issues we do face as a company and I'm sure that every company faces, is that there's business registrations all over the world in the name of Facebook but they don't have the Facebook… They have actual validated contact information.

Now, we go in and say "You cannot legally name your entity Facebook whatever, or EBay whatever, or PayPal whatever…" and I've shut them down all over the world. But there was contact information so it identified who was running that legal entity that was created in our name. But in a domain registration that can easily be popped up, content put on it that would make you think it's Facebook or a famous brand, and it's not harming our brand as much as it's pulling information from individual users.

People rely on our brand as somewhat safe, not completely, and so they will give their information freely. I mean if you want to protect the individual users we have to also prevent people from illegitimately using information.

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Emily Taylor:

Thank you. Bill, did you want to come in? I think we've probably, just to sort of say I think that what we should do is share this document on the list so that people like Michael, like James can have a look at it overnight. I think that probably we'll take your comment, Bill, and then I think we should say we've done a good job today and we're nicely prepared.

Bill Smith:

Yeah, basically it's to agree with Susan and Wilfried. We need to be cautious not to go too far, but here this is an example, a clear example and we know it's not just Facebook, right? If it's happening to Facebook it's happening to lots of other companies as well where there are fraudulent registrations that are used, except for name server and other things that are using all the other details of the company and it's in order to confuse a consumer at some level. They wouldn't make it look as official except to confuse; otherwise they'd put in "A, A, A, A, A."

Susan Kawaguchi:

Also it's individuals. I have made many a phone call to infringing registrants and found out that it's an 80-year-old man, his wife answers the phone and doesn't know what a domain name is and a WHOIS record is. These are one-offs and I understand that. To your point, Kathy, this is not the first bunch of accuracy issues we need to face but I do not think ICANN understands all of these.

Emily Taylor:	Kathy?

Kathy Kleiman:	So I'm wondering if, and kind of talking in the background to Susan, that again, the first big crack is getting rid of those domain names that are so clear on their face, the "A, A, A, A's." But if the goal here is to make sure that it's on the radar screen of ICANN Compliance, then maybe just a thought that we put it under "Findings" and leave this one as kind of a pure development one – ask ICANN staff or Compliance staff to track this over time and to develop some of their recommendations within the next twelve months or 24 months, so that again, the next WHOIS Review Team gets it, it's on their radar screen and maybe there's a faster fix that they can begin to understand, especially for big companies. But let's start the tracking mechanism on this so that there'll be metrics.

Emily Taylor:	I think, just harkening back to our earlier conversation: on my million and one how to improve Compliance, and it strikes me that we can perhaps reach out to Compliance at this stage and say "This is what we're thinking: this is too detailed to really put into the report. What would help you do a better job? What would you find helpful from us in assisting you to get to where you'd like to be?" Bill?

Bill Smith: Yeah, I guess I would point out that this really isn't a Compliance issue, I don't think. This is a different animal but I think correctly we're falling into the trap that ICANN Compliance is the only place that does anything related to WHOIS, so we have to go to them.

[background conversation]

Bill Smith: Exactly.   This is an ecosystem, bigger than that – it's the ecosystem and how do we protect consumers against the things that people will attempt to do?

Emily Taylor: Let's keep thinking about this. I've got Wilfried and then I think we've probably had it for today. Were you suffering? You were very discreet.

Wilfried Woeber: No, I guess the following is not going to make me very popular with Susan or with Bill, but I do see the danger that we are stepping far outside of our mandate. And I do see the danger that we are focusing on this particular issue because it is a very valid sort of issue with those two representatives on the team. This is not in any way meant to downplay the importance but it is just one aspect of all the things that can go wrong and that are going wrong,

and that are done with malicious intent on the network. And I'm not comfortable with any attempt that tries to mix that larger problem space into the WHOIS Policy Review Team's report.

I do not object against compiling a sort of informal appendix, although we said we don't want to do informal appendixes; but sort of to collect the things we hit along the road. And this is just one aspect; this is sort of a fraudulent registration to support phishing – that's, as you said, social engineering. There are lots of other things. You can attack the internet on different planes. You can do that on the application layer; you can do that sort of on the naming layer; you can do it on the rooting layer; you can do it on the local area network.

I think it would just blow apart the whole effort here if we would try to come up with a list of everything that can go bad and can go wrong. So I would rather suggest that we keep the accuracy as narrowly defined as we can, and maybe put the fraudulent registrations with correct data maybe under a completely different headline, under something which is "And by the way, ICANN, here is lots of stuff you should start to get educated about or to become aware about." But I think it's not part of the core of the report. Sorry for that, Susan.

Emily Taylor: I think this is something that you yourself suggested, that this isn't maybe one of our headline recommendations. It might, for example, be a useful thing that we can cite as something that's

happening when we're talking about the harms of inaccuracy in our earlier analysis or something like that, when we're actually just setting out the [stall] of what's out there. And it might be an area of the report that could just be developed more.

So I think that I just see nods around the table. We do need to keep our focus and we do need to keep within our scope. This example is very interesting, actually, but also so it could be a very good example of the kind of harms that are caused, the consumer protection angle that brings us back to our scope. So this is consumer trust, this is another area that erodes consumer trust. So it's probably something for deep in our analysis as an example but we might not be carrying it through to our headline and findings.

Okay, with that, I've asked Alice and Olof if they wouldn't mind forwarding this to the list so that we've got it, and also people who aren't able to join us can see where we've got to. If you could just introduce it so that it makes some sense rather than just being this abstract, weird list and say that what we're doing is to try to categorize our recommendations.   In preparations for our discussions we're actually trying to condense as much of the recommendations as possible and this is our current thinking for the categories and where we might go – a high-level approach that we might take.

I'm so impressed by everybody particularly having heard some of the stories of your journeys and knowing that we saw you at breakfast having just got off planes, so thank you very much for turning up and turning up in every sense, even in the kind of

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football sense of turning up and giving it the best game you can. Thank you, and I think that's given us a good start for tomorrow. Cheers.

[End of Transcript]