ICANN
Transcription
GNSO Temp Spec gTLD RD EPDP
Note: Although the transcription is largely accurate, in some cases it is incomplete or inaccurate due to inaudible passages or transcription errors. It is posted as an aid to understanding the proceedings at the meeting, but should not be treated as an authoritative record. The audio is also available at: https://audio.icann.org/gnso/gnso-epdp-gtld-registration-data-specs-07feb19-en.mp3
Adobe Connect recording: https://participate.icann.org/p9kjnzwh3uj/
Attendance of the call is posted on agenda wiki
page: https://community.icann.org/x/R50WBg
The recordings and transcriptions of the calls are posted on the GNSO Master Calendar page http://gnso.icann.org/en/group-activities/calendar

Operator: Recording has now started.

Terri Agnew: Thank you. Good morning good afternoon and good evening and welcome to the 44th GNSO EPDP Team meeting taking place on the 7th of February 2019 and 1400 UTC. In the interest of time there will be no roll call. Attendance will be taken by the Adobe Connect Room. If you're only on the telephone bridge could you please let your self be known now.

Hearing no one we have posted apologies from Kristina Rosette of the RySG and Georgios Tselentis of GAC. They had formally assigned Beth Bacon and Chris Lewis-Evans as their alternate for this call in any remaining days of absence.

During this period the members will have read-only rights no access to conference calls. Their alternates will have posting rights and access to

conference calls until the members return date. As a reminder the alternate assignment form must be formalized by the way of the Google link. The link is available on the agenda pod to the right as well as the meeting invite email.

Statements of interest must be kept up to date. If anyone has any updates to share please raise your hand or speak up now. Seeing or hearing no one if you need assistance updating your statements of interest please email the GNSO secretariat.

All documentation and information can be found on the EPDP wiki space. There is an audio cast in view only Adobe Connect for nonmembers to follow the call so please remember to state your name before speaking. Recordings will be circulated on the mailing list and posted on the public wiki space shortly after the end of the call. Thank you and with this I'll turn it back over to our Chair, Kurt Pritz. Please begin.

Kurt Pritz: Thanks very much Terri and hi everyone. There's certainly a lot going on and I've been thinking a lot about -- as you all have -- about the way home. So first I want to again encourage everybody there's some additional materials that just went out yesterday on categorization of the issues that have been raised - that are associated with the recommendations of a categorized in a different way. So and these more often than not had a proposed path forward suggested by us as we looked at each one of those. So if you could take a look at those -- in addition to everything else you're doing -- that would be terrific because we want to publish a version of the final report tomorrow.

And then in that final report I think what we've discussed is we want to highlight the issues that we think are settled and the issues that we think are still in play. So we'll use some mechanism in that version of the final report.

So you can draw your attention to those things that are still on the discussion list.

And with that and with everything flying around I think, you know, they've been flying around for everybody and so we're going to take a step back starting right after this call and see where we stand and see where we need to get to in the next two weeks in order to publish the report.

As you know, we're still planning a call for Monday and then taking the rest, plan to take the rest of the week off for meetings. So I hope that's helpful in some way to you all. I know there's a heck of a lot of work.

If you have any questions I'm going to get into the substantive agenda right now. But if you have any questions I'll just pause for a second to see if anybody has a hand to raised or if staff has something they wanted to add to these opening comments. Kavouss how are you? Go ahead.

Kavouss Aratesh: Yes good morning and good afternoon good evening. You seem to be very tired and you're working very, very hard, wish you all the best.

I have one question then I have one comment. I don't understand what you mean by categorizations. If you categorize what on what basis and why we have to categorize? And if we categorize I don't know categorize in what order, order of priority, order of relation to something. This I don't understand. You have - or some people have talked to each other but I'm not involved what it means by categorization first?

Second we are nine stakeholder or advisory committee or any constituency. Everybody has right to comment and everybody has right to be heard. I made

a lot of comments on the chat and on verbal but none of them were taken into account. I am very disappointed and frustrated.

Sometimes a point raised in the chat will be followed. Sometimes the points raised on the phone or Adobe Connection will be followed but some other people are not – they neither followed it in chat nor in the verbal conversation. For instance I said several times I disagreed with the place arrangement but agreement, was not heard. I asked the question what do you mean by aggregations? It was not mentioned. It was mentioned verbally, but it was not even implemented that categorization in - sorry in the IRR aggregation Recommendation 5 what we mean and technically aggregate what? It should be mentioned. And there are a few other cases.

So I want to once again say that we have equal rights. This is not a meeting of a particular group. It's meeting of everybody. And moreover this is a team and team means mutual collaboration. Some people they start to open the discussion on something we have completed several times. To use this opportunity is not right. We don't know where we are. How we cannot follow really these discussions.

Everybody open a new see situation using these opportunities. This meeting was before the second, yes first of yesterday was just to take account of the public comments. And now issues are open and I'm not following that. I'm very sorry. I apologize but that is the situation. Treat everybody equally, take into account the views of everybody and at least if they are not agree tell them they not agreed but not ignore them. Thank you.

Kurt Pritz: Thanks Kavouss. You know, I'm sorry you feel that way. I think your comments are listened to by the whole group and many of them find their way into the final versions and some of them are still open questions.

So just to pick one, you know, that whole discussion about arrangements and versus agreements, you know, I think everybody, you know, I think I share your concerns exactly. And, you know, we put them to back to ICANNs staff and the board and we're waiting to hear something from ICANN board.

So, you know, and I see, you know, not just speaking for myself but I see responses to your recommendations in the chat. And that sometimes they call out your recommendations by name but often it's the subject matter that's discussed.

I – and certainly and I'm going to echo (James) here it makes me sad that, you know, there's some - it doesn't make me sad but, you know, I think as a group we need to – I agree with you that we need to avoid reopening issues that were closed even if there's a sudden realization later on sometime and, you know, especially with regard to rewording certain things that were settled once or twice earlier.

I think, you know, one of the things we need to recognize here is in trying to get to the end is one of the – it's really cliché but it's just the end of the beginning right? For one, you know, there's this phase two staring this group right in the face where a lot of these discussions will continue. But GDPR compliance is going to be an ongoing effort. And there's going to be new privacy regimes around the world and it's going to be a constant topic of policy and implementation discussions in how we address the changing landscape.

And so, you know, what we're trying to do here is make sure that we're GDPR compliant. And, you know, if you were to ask me to look into my crystal ball I think the tightness we feel around it will open up over time as

compliance with GDPR the different regimes sort of relax and everybody gains a good understanding of what they are.

So in going forward I'd ask everybody to think that, you know, what we're doing here is not the last word on this. and, you know, we'll be continuing new needs for data and we'll have to figure out how to accommodate those and we're going to recognize that some areas of GDPR are enforced in different ways than others and we're going to adjust our regimes for them.

So my sense that some of us think that, you know, if certain things aren't settled now or closed off now, you know, on every side of every issue then the issue, the opportunity to debate that might go away forever.

So I don't think that's the case. And I think what we need is to provide a competent knowledgeable document to demonstrate that. The ICANN community understands GDPR and has created this mechanism or framework for addressing it as it's currently written and imposed and, you know, understanding that will go on after that.

And finally I'm sorry, I'm so tired I'm really embarrassed to tell you guys that I actually do 30 jumping jacks before every meeting and I didn't do any today so maybe that's why I'm tired. Anything from staff or any other comments? (Emily)?

(Emily):   Can you hear me?

Kurt Pritz: Yes. I have to turn up my speaker a little bit so if you could speak a little louder I think everyone would appreciate it.

(Emily):   Okay. I just wanted to say before we kick off - I'm really (unintelligible) very confused about the number of issues that are going around at the moment. You know, the big picture is you and the staff are doing a fantastic job job - and nobody can hear me. I'll write in the (unintelligible) write.

Kurt Pritz: Okay with that let's get into the substantive agenda. And first item there is the implementation bridge. So I don't know if this is something where (James) could start off or some member of the contracted parties? Oh and Kavouss I just – I'm going to cut off (James) so he can gather his thoughts and say that, you know, maybe I misused the word categorization. You know, at the information or the set of issues that was released yesterday was a table of issues that were raised. So it was really a listing and didn't, you know, did categorize them in any way other than each issue was identified as being associated with a recommendation or something like that. So categorization is probably too strong a word. So I hope that's helpful.

                So (James) is typing. Can anyone – can one of (James)' CPH colleagues recuse him on this issue or would it be better to do something else? Go ahead (Matt).

(Matt):   Yes thanks Kurt. I've got a long history of rescuing (James) I guess I'll carry that on. So we've got some text that we've been working on in conjunction with our registry colleagues. I'm happy to paste that into the chat here. I think that's probably the best way to do it. And it's essentially in line with what we had talked about in Toronto that you've got an effective date of this policy and then the ability for contracted parties to either comply with this policy or continue to implement the measures that were consistent with the temporary spec. That was the language that we had come up with. We're happy to have feedback. I can also send that on the mailing list if that's easier as well.

But this has been reviewed both by the Registry Stakeholder Group and the Registrar Stakeholder Group and we didn't receive violent objections so I think it's safe to put forward as text that we would include in the final report. Thanks.

Kurt Pritz: Well let's take two minutes to read this. I don't think we need to set the clock. I think we can keep track of that. So (Matt) or anyone else from the team that come – that created this, the date's something that we would fill in here or would happen at a certain date?

(Matt): A Kurt I see (Beth)'s hand up. So I think maybe I'll defer to her and hopefully she'll provide an answer. (Beth)?

Kurt Pritz: Okay. All right Kavouss and Ashley please maybe we'll get some additional detail in how this works and then we then maybe can take your question.

Kavouss Arasteh: Yes. I think we are talking of something which is I would say a transitional arrangement. There is a date of implementation. Until that date you have to do something. And you have to apply some rules. And there are two ways to do that, either continue what we have currently or we try to comply with the technical specification. Are there any other solutions for that I think? If this – I think we don't have any other options that's, you know, of the two. Do we have? Thank you.

Kurt Pritz: Ashley would you mind me deferring to (Beth)?

Ashley Heineman: Go right ahead.

Kurt Pritz: Thanks Ashley. Go ahead (Beth), welcome.

(Beth): Hi folks. So the with regards to the dates we were sensitive to the fact that there will likely be some implementation time as the need for this in any case. So we felt that that could be something that would be up for discussion. (Matt), that we had January 1, 2020 as a place holder sensitive to the fact that there's phase two and there's other work to be done as well as recommending the (unintelligible) will require some time on to develop and implement.

So that, the date is up in the air that would be acceptable. And just as a little background, we felt that this was a stable way to move forward as well as a lightweight mechanism. So those parties that are able to comply with what would come out of the recommendation before confirmed with their consensus policy could follow that or they can continue to be consistent with the temporary specification. And that would both work with the functions of our current contract as contracted parties as well as allow compliance to still have their framework and their clear way forward. Thanks.

Kurt Pritz: Thanks. And excuse me everybody. Let's get the full pitch, so thanks for that (Beth). Can you (James) can you jump ahead if you have some ideas in way of clarification so we can hold our questions?

(James): Sure, thanks Kurt. And not really just a material clarification but just a little bit of background for our colleagues from other stakeholder groups and constituencies and even outside the GNSO. It may not look like a lot of language but this is a result of a pretty tough sell. A number of contracted parties were concerned dereference to the temporary specification was a de facto extension of something that cannot live beyond its first start date and we're very concerned about the precedent that that created for our contracts.

Another group believed that the temporary specification was noncompliant with GDPR as it stands so continuing to operate under that would expose

them to legal risk. And the third group believed that this just wasn't enough time whatever date we set.

So I just - I'm trying to kind of give a little bit of color commentary here that getting to this point was no small task. And I certainly want to give credit to a lot of the folks on the registry side, particularly (Beth) and (Sam) Demetriou and also the folks on the registrar side who really had to kind of sell this to a lot of different factions if that's the right word to address to thread the needle between a lot of different concerns.

So I'm just kind of putting that on the table for folks who may be their – maybe a reflective reaction is well why do we need this at all and try to kind of set the table for why it was so challenging to get to here. Thanks.

Kurt Pritz: Thanks (James). Go ahead Ashley.

Ashley Heineman: Thanks. This is Ashley with the GAC. I just want to say that I actually like the short text. And I think it really is important to have some kind of bridge here. So I actually think this looks really good. I – that being said I think, you know, the devil is really in the date once the date gets sorted and, you know, I'm interested to hear how that is going to be developed and when.

But in addition to that just this one small thing, the last sentence it looks like we needed another date in brackets here as well because otherwise it could be misconstrued as, you know, as long as you've implemented the temporary specification and you could do that for like an unbound amount of time you won't be subject to compliance. So I think the insertion of a date here kind of puts it in a place where I am I think pretty comfortable with the text. Thanks.

Kurt Pritz: So I've heard - (unintelligible) is that a new hand or an old hand? Thanks. Margie?

Margie Milam: Yes this is Margie. Thank you. This is really a great piece of work. I think that it goes a long way in addressing the issues that we've all been talking about. The one confusion I have -- and I'm just trying to think it through -- is, you know, from the perspective of someone who may be submitting requests, how would we know whether we're submitting requests to say a registrar that's under the temp spec versus a new policy? Is there some way to know because I mean, you know, I just can imagine confusion at the end of the, you know, during this interim period and it might be solved with, you know, having the registrars inform ICANN which one they're operating under until the implementation date. But that's just something to think about. I'm still thinking this through and I think the language looks generally pretty good.

Kurt Pritz: Thank you Margie. Mark. Mark S.

Mark Svancarek: Thanks Kurt, Mark S. - Mark Sv. I think a lot of my comments are either being addressed by Margie or in the chat. I'd like to see a defined term. So where it says bracket I assume that that'd be (unintelligible) date and I think it would be - if we had to define terms such as consensus policy date or official transition date or something like that so that there would only be one place where the date was defined and elsewhere we would simply have the defined term.. I think that would prevent headaches down the line.

Also I like the issue that Margie raised that during the transition period we will know what procedure any given contracted party is using. So hopefully as part of say Rec 12 that would, you know, there'd would be some consistent way of telling people I'm still functioning under temp spec rules or I have switched over to the new rules so that it would save everybody time rather

than submitting a request and the discovering oh, you have the wrong format please, ask again, you know, bring me a rock. Other than that I think the text is great. Thanks.

Kurt Pritz: Thank you Mark. Kavouss please go ahead.

Kavouss Arasteh: Yes the first question is that the first that the first round you're talking of the date. Date should be two things. One date should be 25th of May 2019. The other date will be the date will be established as the effective date. That means we have sometime between 25 of May 2019 and the date these categories need to be established. This is one question. I have no problem.

I have some difficulty with the last sentence. The (unintelligible) of this sort who continue to implement the measures complying with the expired technical specifications, we don't know what those measures and we don't know who declare that they are complying in PDP in the (unintelligible) application.

It is the first compliance by the (unintelligible) or someone check and yes these measures are in compliance with the technical specification expired. So that is we don't know.

And the last portion I have difficulty saying that will not be subject to compliance inquiry especially latest through those measures - those measures. That we measure that (unintelligible) on the – just around the date and declare that they already in compliance with the technical specifications. So I don't understand the last part, the last, last part of that will not be subject to comply. I don't understand. This is a very vague legally. Thank you.

Kurt Pritz: Thanks Kavouss. I'm sort of saving these questions and then we'll kind of list them for possible response. Alan Greenberg, welcome.

Alan Greenberg: Can you hear me?

Kurt Pritz: Yes I can. Thanks.

Alan Greenberg: Okay sorry, I'm on a different audio set up today and there's some delay. A couple of points. I would have preferred enacting an interim policy instead of just referring (unintelligible). But I can certainly live with this. I agree with Margie that we need some indication of what regime a given registrar registry is under. I suspect this is this could be really messy for registrars who may be dealing with multiple registries, some of whom are in one world, some of the other. But if they can live with it I certainly can.

                    And I do question the use of the word inquiry at the – in the last sentence. I would've thought action is correct but, you know, again I'm not particularly worried about it but I think action might have been clearer than inquiry. Overall I'm delighted if we could do something like this and go forward. And I also don't think we need to replicate the date.

                    The sentence says that until the date, the second date registry – contracted parties can do A or B. And if they do B then it's subject to the last sentence. So I'm happy with it. Thank you.

Kurt Pritz: Thanks Alan. Diane please go ahead.

Diane Plaut: Hi Kurt. I really going to compile most of what is said. What I want to say has already been said. I think that the definitions of defining the policy as

consensus policy and the effective date capitalizes, you know, an effective date that people know what that's clear.

I mean the BC has put forward these questions because really our goal in amending Rec C, Recommendation 12 Part E is really to have that clarity of what's going to happen during the implementation period so that when it comes to requests for disclosure there is a clear process to follow to streamline everything accordingly. And just concern from a liability standpoint to put out there that will not be subject to compliance inquiries I think might be language that should be avoided or better defined because that could be, you know, who is making that judgment call? I think that that wording needs to be cleaned up but otherwise I think this is a fantastic step forward.

Kurt Pritz: Okay great. So I heard sort of three questions. One was the ones that Diane just put up so I won't mention that again. The second had to do with Margie's question about has any thought been given at this stage to - for how parties should interact with the registries and registrars given they might be under different regimes? And another question had to do with two different dates. So some I think on the call are assuming those are the same date and some are assuming they're like Ashley asked there, I think they might be different dates.

Another question had to do with Kavouss' reference to the last sentence and maybe someone could make that clearer for him and, you know, reword possible reword if necessary although may be an explanation will make that clear. And then finally, you know, so I'm sensing, you know, that part of this is to make this sort of a date certain.

And I think (Matt) mentioned January 2020 as being that possible date. But when, you know, what's the mechanism for us deciding what that date is and

when do we need to do that? So I think I listed above five different questions. So I don't know if anyone from the contracted parties can pick up the ball on those. (James), go ahead.

(James): Hey Kurt, thanks. (James) speaking and I can probably take a swing at two or three of those. I think the first - I'm going to work backwards here in just the order that I remember them. I think first off yes, let's put the date on the table from – for this group to establish a date. I don't think we assume there will be time for a full-blown IRT and even if there is let's take that one bit of work away from them and if this EPDP can push a date that'd be great.

You know, I think the date that we just keep throwing around is January 1, 2020. I think but beyond is it takes away the value of what we're doing here and shorter than that starts to, you know, be more symbolic and not provide enough time for all the system changes that will need to occur. So I don't know that's just something we're throwing out there. And then just to point out some consensus policies usually provide anywhere from 12 to 18 months lead time for implementation. So this is already cutting all that in half or 1/3.

Second point was about the use of the word compliance inquiry. Yes I agree. That's probably needs a new word there. And I think we're open to being more specific. Maybe that should be compliant sections specifically related to those measures.

I think what we're trying to say here is yes compliance can file an inquiry and that's what's going on but we – we're looking for some grace period where they're not going to bring the hammer down on registrars that are making – and registries that are making a good faith effort to transition from one framework to the next.

Third question was whether or not I think it was Ashley said there should be – should there be a date, a reiterated date in that last sentence? I think sure if I can clarify that this is not a indefinite situation and we can put a hard stop on that that would be a welcomed addition that. I'm open to where that goes.

The only question I think that I'm struggling with a little bit is Margie's point. I think that it's going to be difficult to tell from the outside whether or not a particular contracted party where they are I guess in their transition. So, you know, it could be an obligation that, you know, the contracted party when responding to requests should, you know, should respond, "Hey I'm operating under this temporary specification. We anticipate to be, you know, moved to the new one by this date or we're already on the new one or whatever," that that disclosure should be a part of a response.

But I also believe just from a practical standpoint that if we set the date of January 1 that – of 2020 we're not going to be, you know, while I don't think we'll be finished with phase two access framework by January 1. So I think that really for the most part the existing status quo for those types of disclosure requests will prevail regardless of whether or not or how we introduce this bridge.

So I feel like this is really just kind of locking down the existing situation until we work out the phase two access questions anyway. So but I take Margie's point it's kind of okay from an outsider to figure out where any given contracted party is in this transition. It's kind of like shrouding your registrar right? You're kind of living in two separate (unintelligible). Yes thanks.

Kurt Pritz: There's a metaphor there about herding cats and herding registrars if anybody gets that. So Alan Greenberg go ahead. Thanks for that response (James).

Alan Greenberg: Thank you very much. I think from what (James) just said there could well be
                   registrars and registries who are part way there, that if some things are
                   implemented, some things are not. That may or may not be a good thing
                   because my clarity is that the intent. And the second one is a little bit of
                   operational stuff. Let's not make it January 1. It's really bad to do major
                   changes on a holiday. Thank you.

Kurt Pritz: I was going to say that'll be a busy holiday week for a lot of people. Mark,
                   please go ahead, Mark Sv.

Mark Svancarek: Thanks Mark Svancarek. I just wanted to clarify our previously, mine and
                   Margie's previous questions for (James) because I'm not sure maybe we were
                   clear enough. The question about knowing which procedure to follow isn't
                   really to access issue. It's the today under the temp spec requesting disclosure
                   is more or less undefined. And there's a specific set of data that is redacted
                   versus published. And once we get into this interim – once we finish phase
                   one there will be a reasonable disclosure for unpublished data to third parties
                   process that's defined and that'll be different from what's in the temps spec.

                   And then later in phase two there will be presumably yet another process
                   which is the accredited access process that we're talking about presumably
                   again.

                   So pick the first two so setting aside phase two accredited access and all that
                   stuff just between the temp spec now and the phase one reasonable disclosure
                   request process there could be a discrepancy between those. And it would be
                   helpful if, you know, there was a page that every registrar publish that simply
                   said here's my current state. Here's how you go about and do it because
                   otherwise, you know, it just takes more roundtrips. That's all.

Kurt Pritz: Thank you. Kavouss go ahead.

Kavouss Arasteh: Yes still I'm not clear about effective date. If any arrangement or anything
                  like this the most important and crucial part is effective date. We are not clear
                  that what we – where we are now.

                  We have a temporary specification (unintelligible) date. And after that if
                  EPDP is approved up to phase one -- I don't know whether phase two be
                  included or not -- then what is the date of implementation of that? The date
                  that is approved by the board or (unintelligible) or IRT or anyone picked a
                  date 1st of January 2020.

                  So there are sometimes between the 25th of May and formal effective date
                  established by an entity. I feel this schedule is very important. It is not clear.
                  So it should work out quite clearly. I don't know, do we need to do it now or
                  is it something that we did after the completion of our work? This is effective
                  date. This is a recommendation or we leave it to the GNSO? Thank you.

Kurt Pritz: I don't – I know I'd rather not answer for the contracted parties but I can
                  Kavouss your question I think is a date for us to select here. And I think
                  (James) has suggested the 1st of January 2020. And I think that Alan's
                  pushback on that in some very constructive way that it might be, you know,
                  pushed out a couple few weeks or something like that. Margie go ahead
                  please.

Margie Milam: Sure. This is Margie. The – following up on the issue of the disclosing which
                  regime the registrars are operating under rather than having them publish it on
                  their Web page which obviously is an option but I imagine a lot of them prefer
                  not to do that, just simply telling ICANN what they're doing and then ICANN
                  publishing a page, you know, information for people seeking to submit

disclosure requests and that is just a listing of what registrars are doing with respect to the regime that they're applying – that they're operating under would be a simple fix. And that way again it's one less thing that the registrars would have to implement on their Web site.

Kurt Pritz: Thanks Margie that's constructive. Kavouss I- since I didn't answer your question. Go ahead please.

Kavouss Arasteh: I have no difficulty to agree with (James) to propose or to suggest 1st of January 2020. I have no difficulty with that. And then the only thing I have – we have to be clear what is the situation between 25 of May 2019 and 1st of January 2020?

So what is the situation over there, which views will apply? What situation will apply? This is 25 May 2019 or the date that the recommendation is approved by the board? So could you clarify what that (unintelligible) is. First of January 2020, I have no problem with that. You have to establish a date and that seems to be logical. Thank you.

Kurt Pritz: Thanks very much for that. I'll, you know, I'll wait for (James), (Matt) or (Beth) to answer that. I think it would be a – anyway I'll wait for one of them to answer that. I have kind of a question – I have a question for – oh, go ahead (Beth).

(Beth): Oh I just I think it's an easy one to answer. That's literally what this is for to bridge that gap. So I think we should discuss and what that date should be the first thing as well as second date. But and then we can think about what reasonably makes sense, you know, as we go through the time. This is when the final report is going to come out. Then it goes to the GNSO, goes to public comment, it goes to the board. You know, we can kind of target where that

might be best to live but what the function of this is. So I think that we're in a good place.

And thanks everyone for some really good suggestions. This is as (James) said a little bit of a battle to get it in a good place for registries and registrars as well as making sure that it's met everyone's needs in the group. So thanks.

Kurt Pritz: Thanks for that (Beth). And so that's a great segue because I was going to ask Marika and I don't know and the people - you guys on this call might have a different idea. But, you know, I was just thinking about the timing of when the work could start. And typically an IRT starts after the board approves the policy. But I don't see a reason why we couldn't start on this effort earlier than this after the final report's published or after the GNSO says no objections.

But, you know, I'm an operations guy so I'm thinking about, you know, where in the schedule I can pull things forward and make some more time to do this work. And I don't know if there's an informal way we can have discussions that aren't under the auspices of in IRT but to start this right away because the bottom line is of course if the GNSO and board don't approve what we do then the walls kind of come crashing down.

So they're under the same constraints that we are in a large way. And so I see little risk of breakage or wasted effort if we were to start this early. So my question to Marika is there a way to do this and if there is then to everybody else what do you think about that? Thanks Marika for raising your hand.

Marika Konings: Yes thanks Kurt. This is Marika. And so actually the PDP manual is specific about, you know, that an IRT is usually formed after the board adopts the recommendation, you know, specifically for the reasons you indicated that,

you know, it might otherwise result in work being done that is irrelevant if the board doesn't adopt the recommendations.

But what I could maybe foresee here and I'm also looking to especially Trang who will of course will be supporting I assume the implementation effort, you know, what you could maybe consider is recommending to the GNSO Council that they are ready informally give permission or approval for a group to come together to maybe - and maybe frame it in such a way to plan for the implementation phase. So it could specifically focus on kind of setting out, you know, the work that needs to be done, how that should be done, you know, the timeframe around it and especially if indeed you put in a target date for the effective date it would allow as well then that planning to align with those dates.

So that could be a potential path forward besides, you know, I think it's something that, you know, we probably need to check internally. And I said, I don't know if Trang is already on the call and can speak to this because as well. I see a lot of questions coming by because the way it usually works in the implementation phase we kind of swap roles.

So in this group the policy support team is the lead on supporting the group and colleagues from GDD play more an advisory role focused on the implementation related issues. And of course in this setting it's even a bit more different with former liaisons.

But in the implementation phase it's the GDD colleagues and take the lead and manage those groups. We, you know, do participate on those calls more as well providing the perspective or input that, you know, may be relevant from the policy development side of the work but we do not lead those efforts.

And so that would be my feedback at this stage. I think informally yes you could start planning assuming that, you know, the GNSO Council would be all right with that and there are no concerns either from the GDD side, startup informal planning work. But I think that the formal formation of an IRT, you know, does only happen after the board adopts the recommendations and, you know, it has specific cycles it goes through as well. And that usually is also associated with a public comment period which also then usually includes implementation effective date to make sure that everyone's on board with, you know, what the implementation plan looks like. So I hope that was helpful.

Kurt Pritz: Thanks. I think that is. Kavouss, go ahead.

Kavouss Arasteh: Yes I have difficulty the target date and the effective date. Legally target date has no meaning. Target date is a subjective things in order to encourage the people. But we need to have a effective date. It is called effective date of coming into force, date of coming into force. We don't have target date.

I don't understand this detail of internal is ICANN and so on and so forth. So I have no problem for 1st of January 2020 provided that between 25th of May and that date the suggestions are clear what we're doing and we're closing the date and not continue this thing. Thank you. We have strategically discussed and we have to end up this discussions. Thank you.

Kurt Pritz: Yes Kavouss. So I agree with that. I think the wording of the proposal doesn't use that target date. I think just some of our discussion here has talked about a target date. But I think that's right and…

Marika Konings: Kurt this is Marika. If I can make one comment in that regard.

Kurt Pritz: Sure.

Marika Konings: The reason why we indicated now a target date is that, you know, usually you cannot announce an effective date until you have, you know, the implementation ready. So by fixing yourself, you know, to a certain date you, you know, do run the risk that, you know, either things may be ready six months earlier and you're basically saying that, you know, you're not able to do that because you agreed to your fixed date.

So I think, you know, at least with the target date I think, you know, everyone's very clear that, you know, that is really the latest date by which, you know, the implementation or the new policy should become effective. But you allow for a slight flexibility that it could also be earlier if work moves quicker than anticipated. So I think that that's what we're looking at and I said, you know, making really fixed date will give no flexibility whatsoever to address, you know, any circumstances that may occur.

Kurt Pritz: Okay. So on or before. I kind of think registrars would flock to the new policy if the IRT finished earlier than that. So could the – so this has been very good. So for (Beth), (James), (Matt) and others that contributed to this could you take into account the discussion we've had here? This might insert dates, maybe we want to avoid the holidays are not. Maybe we want to apply the flexibility to make the effective date earlier and then, you know, make the clarification along with – about Ashley's question about those dates. And then finally this might not be part of the recommendation here but also take back or think about Margie's recommendation which regime is being followed so third parties know how to deal with registries and registrars.

So I think that's the list so think about that date, make a recommendation. Think about Margie's thing and provide any clarity that is asked. You know, I like Alan Greenberg's very pragmatic suggestion to make it, you know,

potentially January 20 or January 30 to spare everyone, while everyone's going to spare themselves I think at this stage of the game.

I have one more question for the group. So, you know, I would make it our plan to establish some sort of working group that mirrors an IRT that could start sooner rather than later.

Kavouss Arasteh: Excuse me I have serious objections…

Kurt Pritz: Yes Kavouss, yes go…

Kavouss Arasteh: I have serious objections with target date. We indicate effective date. We leave it to the GNSO and ICANN board if they want to have something to inject something your flexibility they can't do that. But the EPDP team just established effective date but not target date. I have disagreement with that proposal. Thank you.

Kurt Pritz: Sorry do you want to – so Kavouss I just want to be really clear because I thought I addressed your concerns. So in the case where – in the unlikely case that the group finishes earlier you'd still want to keep that date, is that what you're saying? So you like the recommendation the way it's written with the date certain?

Kavouss Arasteh: Yes I would like that we indicate one single date and single date is called effective date of coming into force of the outlook. Whether they want to have another date for flexibility before that and that is it is nothing to – it is not up to us. It is some big deal and this is assuming that outside the activity of us we can do it according to the practice (unintelligible).

Never, ever I have seen two dates in any output saying that implementation date and the target date or effective date target. One single date and you call them, please call them effective dates. Thank you.

Kurt Pritz: Kavouss would you mind typing that up so we are really clear on that because I think we're in agreement but I'm not sure. So either that or we can talk after the call so I can capture that objection exactly, not objection but that clarification exactly, because I, you know, I sense you're making a really good point. I'm - but I'm not sensing whether - I'm not sure whether this addresses it or not. All right so I think that with some consideration based on the conversation we've just had now we could have this finished maybe by the Monday meeting.

And I, you know, certainly agree with Kavouss that the same date shouldn't be repeated twice in any one recommendation because that just as in contracts are – there are always problems. All right thanks.

Let's go on to the next item. Thanks for the work that was done on this. And I understand the - Amr I'm very much aware of the type of conversation that happened around it. So this is a really good result for us I think.

Okay and on each of these - Kavouss is that a former hand or a new hand?

Kavouss Arasteh: I put the suggestion that you ask into the chat. That should be one date and that is called date of…

Kurt Pritz: Yes.

Kavouss Arasteh: …coming into force of the output and then another date is starting for GNSO or ICANN to take care of the implementation flexibility they can do that. But

we don't deal with that. This is up to them to decide something else. That is what I put in the chat. Thank you.

Kurt Pritz: Thank you very much Kavouss. Yes and that's – and I understand exactly all about using a single date. Hadia go ahead.

Hadia Elminiawi: I was going to talk about Recommendation 12 so if it's okay I'll go ahead.

Kurt Pritz: Well let's…

Hadia Elminiawi: So…

Kurt Pritz: …before you do - and I'm sorry if I'm being a little bit selfish here but I'm going to give the group another couple of minutes to read through one more time as we've created different versions. So I'll do that and then you'll be first in the queue. So thanks very much. So let's take a couple minutes and read the latest version of this.

Marika Konings: Kurt, this is Marika. If I may just clarify what people see up on the screen. And so what staff has done is created a clean version for ease of readability which is on the first two pages. And the last two pages you see the redline version which is the version that Diane sent yesterday which is the original version redline by the contracted parties and subsequently redlined by I think IPC and BC. And there's one additional sentence at the top that was suggested yesterday by Thomas. So that is what you see up on the screen. As of for ease of reading you may prefer to look at the clean version but you also have the redline version there.

Kurt Pritz: Thanks for that great clarification. And that's why I recommended we take a couple minutes to read it and thanks for explaining why I should have done a better job, perfect. Ready go.

Is everybody back? So first I'd like to, you know, applaud the work that's been done on this one too. You know, we've come a lot farther that I thought we'd be able to in a short period of time. And creates some, you know, a good deal of specificity around this.

Any way I'll leave it that – I'll leave it at that. You know, I'm concerned that we're going to have a conversation that, you know, pokes holes in this. And so I'm tempted to like go through paragraph by paragraph and say does anyone have a problem with this one because it's kind of lanky.

But let's remember that this is, you know, in the 90% good place and we're trying to finish it off. So and it's a very important piece of work that we come to a conclusion on, a mutual conclusion so I want to encourage that too. So I'll let Hadia kick it off so please go ahead Hadia.

Hadia Elminiawi: Okay. Thank you Kurt. So there has been a lot of discussions over the email with regard to this recommendation. And I would like to refer here to Alan Woods email. And to try to - it's to put it nicely it's incorrect. But more importantly it's alarming.

So although the goodwill of the registries and registrars and the good faith in the parties form the base of the community's trust having an auditable system is necessary to having a systematic means by which the practice can be evaluated and improved. So this is not about penalizing anyone. It's about the community's right and is without doubt of benefit to these contracted parties as well where it ascertains the usability of their systems.

And I'm speaking about the objective. Of course the objective is to have some kind of access where necessary to information. And this is not at all about expanding ICANN compliance role. It's – the objective is simple. It's to have reasonable access and to allow a trusted system to exist.

So it doesn't matter which stakeholder you represent what your interests are, what you're fighting for. If our processes are not built on trusted systems than we are at fault.

And I'm speaking here about the auditing part. So the community, you know, the wider Internet community, the registered name holders, the requesters, the users and (Aiden) referred to civil society and others, they all need to have faith in the process.

So certainly what we have suggested in relation to compliance means that the registries and the registrars are responsible about the process. But we did not refer to any kind of obligations. Again the suggestion was to agree on a means to ensure compliance in this regard. And if the means already exist then, you know, new obligations are required.

So I don't want to talk a lot about this. I think we've been discussing it thoroughly. However I've read the recommendation that's been sent. We all did right now and I thank Diana, (Sarah) and others for this and Thomas. And I think that it does provide this kind of compromise and also does satisfy or address our concerns. So I would say I'm not perfectly happy with it but I think we could live with it. Thank you.

Kurt Pritz: Thanks very much for that Hadia. Ashley please go ahead.

Ashley Heineman: Thanks Kurt. This is Ashley with the GAC. So I think this is looking really good. And I'm glad that we've gotten this far. So I don't want to tinker too much with the substance at this late stage because I think we're at a good spot. That being said I'm going to run very close to bringing up wordsmithing.

But I think it's important for at least to think through because I'm - while I recognize, you know, being consistent with text was needed and I think (Kristina) and I forget whom else was also working on this and I also agree that it was, you know, important that we use the word disclosure as opposed to access.

But I kind of feel like now the way things are worded we're - we've somehow shifted this focus to the request as opposed to the reasonableness of responding to the request. So that being said and I'm happy to, you know, take a look at the document and amend the text as I - at least I think is most appropriate. But rather than having, you know, the constant references to reasonable request for lawful disclosure that perhaps it's best to be reasonable, lawful disclosure.

And that in the cases where we're referring to the request that's when we use request because I think it's just starting to look a bit funny that we have contractual language in here that seems to focus solely on request as opposed to how those requests are dealt with. So I realize that I may not be articulating this very well and I'm happy to try and clarify further if that doesn't make good sense. Thanks.

Kurt Pritz: Yes I'm just reading.

Ashley Heineman: A good example is if you look at the underlying text of the first bullet I think that's like probably the most clear. It's like I don't think we're really talking

about the reasonableness of the request per se. We're just talking about, you know, the criteria that need to be around a request.

Kurt Pritz: So you think that should be – so the first big bullet should be shortened up about the criteria for request?

Ashley Heineman: Well I think it's kind of throughout the document…

Kurt Pritz: I agree.

Ashley Heineman: …but this is a good example. So minimum information required for request for lawful disclosure.

Kurt Pritz: And that's, okay. I think boy, that's a semantic thing. I mean I think the minimum information is what makes the request reasonable I think and complete. I'd – so I'd like to hear a response to Ashley's recommendation because it seems in line. And if it's material to others we should consider that. Alan Woods go ahead please.

Alan Woods: Thanks very much. I can actually jump in very quickly and respond to Ashley there. I think the onus and the burden that she's talking about is probably a little bit flipped in the sense of the onus is on the requester to also make a reasonable request as well as the disclosure. So that's one way. Like I mean this is semantics I agree. We can see what we can come up with but that that would be in my mind.

Now let's just deal with this concept of, you know, this - the trusted system. And can I remind everybody that the trusted system which we are working with them here is actually the GDDR because this is a legal obligation on data controllers. So under 61S as a third-party with a legitimate business interest

may make a request and then we must - we will look at that request and if those where we believe that is within the law to do so.

I – we have always come to the table in this with the goodwill of saying look we understand that this is technically something that people such as the BC and the IPC want comfort on and we understand that that's the whole point.

And it really it upsets me that it's at this point where we're talking about putting in a framework about a legal obligation of which really falls outside of the remit of ICANN anyway to enforce that we are now been looking at this concept of, you know, we need to put in an audit which is just - and I mean audits I see being a benefit to the entire system is clearly from a person who hasn't been audited by ICANN recently.

So what I will say is what we're trying to do here is we're all coming to the table, we're meeting in the middle. We're saying we understand where you're coming from. We want to be reasonable in this. We will be able to put some structure around it but let's be honest, that's a very Irish term and I'm sorry if it doesn't work but let's not do the dog in it. You know, let's make sure that we are doing what is necessary or to achieve a purpose not us to give predictability to those people who want to make these requests.

It's not about a (unintelligible) at this particular point in time. And also, you know, ultimately this is something that we've pushed to phase two as well to be looked at from access point of view. So, you know, this - I personally felt that there was a little bit of an underhanded squandering of that goodwill. We're happy with the direction where it's going but we need to get out of this mindset that we need to be nailed to a table here. That's just – anyone with the goodwill and let's get this going. Again this is something that we were

always, you know, really close on so let's continue on with that in mind please.

Kurt Pritz: So Alan thanks for that. That was really well put. I want to point out that, you know, I understand Hadia's concerns. And I think there is real concerns. And I think it was very – her points were very eloquently put. And then at the end she said but, you know, in that spirit of goodwill, you know, I think the way it's written is acceptable. And so we're going to move forward with that.

So this discussion started out with that really good note. And I think, you know, it's perfectly fair that we allow Hadia and just like we do everybody else on the team to air their serious concerns. But at the end we wound up in a really good place where Hadia, you know, agreed with the current wording as is. So I don't think unless someone has a different take on this I don't think we need to debate that.

I'd like to see that, you know, I'm a little bit blurry-eyed so I'm recognizing in the chat that Ashley had a valid concern that's been validated by others. So I'd like to see, you know, maybe Ashley you could reword one of the paragraphs and suggest it to the group either here or after by today. And, you know, we can see how that would be - you know, the support team could take a look at how that would look if it was flushed throughout because if it's better put the way you have it then I think we should do that. Who is next? Chris, welcome.

Chris Lewis-Evans: Thanks Kurt, Chris Lewis-Evans. Yes I just to talk about the first sentence that has been suggested by Thomas. I think I know where Thomas is trying to go here but I feel that it is over restrictive certainly on LEA request.

You know, that within GDPR, you know, it does make room for 61E which is public task type requests which is a, you know, reasonable disclosure under

that legal basis. And I just think cutting that avenue off law enforcement is actually making their job harder which and I know is not what Thomas is trying to achieve but don't - and I think the (cate) of, you know, not having to do the balancing test later on in the document where I think it's in brackets,

I'd like to get out the brackets where it says balancing test if applicable. So I really don't see the need for that first sentence in think it places restrictions that I don't think anyone really wants. But I'd be glad to hear from Thomas if a way around that if that's not what he's trying to achieve. Thank you.

Kurt Pritz: Thanks very much for that. And I don't see Thomas on the call. You know, I recall that from my scant knowledge that in jurisdiction LEA requests would be handed according to the applicable laws but out of jurisdiction requests – oh good Thomas is there. So out of jurisdiction requests might need to be handled through this mechanism but I'm not sure. Thomas can you go ahead if you're here? I'm told Thomas is here but – oh there he is. Thomas go ahead. We don't hear you quite yet.

Thomas Rickert: I hope that I can be heard now. Sorry I have had a technical difficulty here. Let me try to explain. The reason that the clarification at the beginning of the document was not to establish any deterring effect on law enforcement to file disclosure requests there are two reasons for my suggestion. And certainly it's up to the group to suggest otherwise and not have that qualifier in the document.

61F allows for the disclosure of data if you do the (unintelligible) in that disclosure. However if you look at the second sentence of Article 61F, of Article 61 of the GDPR it says that 61F cannot be used by probably the core functions. So that's my word. It's not the exact text of the ICANN.

And that basically means that a law enforcement authority can't request data based on 61F but they need to have another legal basis for doing so. And then they're on the side of the contracted party would be 61C who would then in fulfillment of legal obligation disclose the data to the public authority right? And these requirements are at least true according to my assessment and the assessment of others for European law authority.

So European law enforcement authority that it has jurisdiction over (unintelligible) might not need to fulfill all those requirements right? So they might just say we want that data and this is the legal basis. And then the contracted party require it to disclose the data. And 61C is requirement to disclose while 61F only entitles the contracted party to disclose.

So if we don't have to qualify in there that would suggest to public authorities, i.e., competent law enforcement that they need to take extra steps in a ICANN environment that otherwise they wouldn't have to. And I think that's something that needs to be clarified, maybe need to find different language to make that clear.

But I think it's just not appropriate for us to establish additional obligations that suggest that contracted parties would refuse disclosure of data if these criteria established here are not fulfilled.

And the other point that I want to make is that 61C is applicable to European law enforcement authorities. And I honestly don't know and nobody could tell me yet how this closure procedure would work with non-European law enforcement?

So is it actually possible for a non-European law enforcement authority to approach a European contracted party to ask for disclosure based on 61F? I

brought this up earlier a couple of months ago in our discussions and I said that we should ask this, the articles or the European Data Protection Board or seek legal advice on the because if it were possible for non-European law enforcement to ask for data based on 61F that would have the astonishing effect that was (unintelligible) European law enforcement had to find a legal basis for asking for the data and then request the disclosure on 61F. It would be sufficient for non-European law enforcement just to say I have an interest in that data and then get it. I even would establish two different sets of requirements and it would actually be easier for law enforcement not having to jurisdiction over a contracted party to obtain that data than it would be for local law enforcement.

I'm not saying that it can be made work but I think before coming up with the policy that suggests that we have the same approach for both European and non-European law enforcement is just untested. And I think we should hold off until such time when we get clarification on how the law enforcement disclosure can work before we craft policy around it.

And GDPR is - makes it easier to disclose data in pursuit of civil claims. Actually that's foreseen because the pursuit of civil claims is less intrusive for data subject than criminal investigation.

So I hope to have been able to shed some light on why I suggested the language here. Again it's not to make it easy – make it harder for law enforcement. But it's just to make sure that we don't establish undue requirements where unnecessary or suggest that it's easy to disclose data where actually it might be more difficult than we think.

Kurt Pritz: Thanks for that very big discussion. I think at the end of the day the GDPR is intended to have astonishing effect. But like you said those – I have no reason

to disagree with your conclusion that the questions you asked have not been answered yet. My thinking here is that on this issue this shouldn't be the headline. So there shouldn't be the - I used to be in show business.

So this shouldn't be the first sentence but I think this needs to be preserved. And maybe it requires more than one sentence. Maybe it requires a couple to make the issue that we're – that is faced by law enforcement a little more clear.

So my recommendation is don't make it the first sentence in our recommendation but rather, you know, put it below but maybe, you know, we'll use - I think using this exact sentence would be fine or Thomas if you wanted to elaborate a little bit that would be fine too. Amr go ahead please.

Amr Elsadr: Thanks Kurt this is Amr. I just wanted to share a couple of brief observations on the timeline and criteria for registrar and registry operator responses. I don't think I have a specific, you know, skin in this game here so, you know, you can just consider my observations as friendly ones.

Either way I think it's fine. But the first bullet stipulates that, you know, there's a response time for acknowledging receipts of reasonable request for lawful disclosure and said that those are two business days from the receipt of that request. It seems to me that, you know, within that timeframe it would be difficult for a contracted party to determine whether the request is in fact reasonable or lawful.

So I was wondering if it would be all right to change this, you know, to response time for acknowledging receipt, a receipt of a disclosure request, you know, since the determination of whether it's reasonable and lawful would presumably be done later than two days?

Also I'm wondering about the feasibility of a second bullet where, you know, responses to disclosure requests where either part of the data or all of it has been rejected or denied and, you know, providing the rationale for that to the requester. I'm wondering if this is also something that is practically feasible to implement. And it might depend on the number of disclosure requests that are coming in. I'm guessing if they are both reasonable and lawful then the data will be disclosed to the requester. But in the event that it isn't then there's a problem with the request itself.

And if those come in excessively large – if they're an excessively large volume of both types of requests I wonder how easy it would be for contracted parties to respond in the detail that this bullet requires them to. So those are just two observations I had and I'm wondering what other - thoughts other folks may have on them? Thanks.

Kurt Pritz: Thanks for that Amr. And I'm, you know, I'm cheaply seizing on words such as, you know, I'm fine with us the way it is but I have these comments. But so thank you for that.

And given that I think Amr's first point is right on the mark that I think the first bullet needs to be made clear that it's the receipt of the request and not that a determination is made. So I think that's important to do. And like him I'd like to hear from particularly contracted parties about his second point if anyone wishes to comment on that. So thanks that Amr. Kavouss?

Kavouss Arasteh: Yes I see some difficulty here in there is very, very lengthy recommendation. There are lots of new things that have happened, new things have come. But I have a - concerns. In the discussions in Toronto I proposed that I would not agree in text to refer that this request for disclosure will replace the access.

I said that we could do something but adding a qualifying that on an interim basis. Therefore I suggest in the chat that we should add something after recommend that the new policy come off by an interim basis come on continue.

I could not agree that we say will replace. We should say that refers to but not will refers, refers to comma, on an interim basis comma, and continue the sentence in the in paragraph two. This is the minimum that I have. Anything for replacement should be the interim basis.

Kurt Pritz: Thanks for that Kavouss. So I - yes thanks for that Kavouss. And I know you raised this issue earlier because I know we debated it. And I think because I was of a similar mind that it was going to be replaced by the access model.

But I think it was Margie but maybe someone else pointed out that there's going to be an access model being developed but that won't address all requests. And so there will still be some request, you know, I'd call it coming in the side door but, you know, that's probably not appropriate that will have to be developed.

So this, you know, this process will endure beyond the access model. You know, it might be replaced by that discussion or it might be improved in detail by that discussion. But it's not, I would think it's not interim or temporary. It's except for the extent that all things are interim or temporary but rather it endures.

So, you know, this would stay in place unless approved, you know, unless replaced by some other policy. And, you know, we could say that in here, but to a certain extent that's the case with all policy. So let's take Kavouss'

recommendation on board and if anybody wants to respond I think that's a good. (Emily) please go ahead.

(Emily): Hi. I hope you can hear me know. Can you hear me Kurt?

Kurt Pritz: Yes, you're louder.

(Emily): Great thank goodness, right. So just listening to all the discussions on this, my impression was that this is not intended to be the last word on access to registration data and that these are very much along the lines of the points that you just made Kurt and also Kavouss.

This is supposed to be a placeholder searching out from a procedural accountability for the processing of requests but none more at law enforcement actors pending the filler discussions that will take place in this group under phase two.

And I thought that our job for this moment was just to put something in place that makes it clear that, you know, there's going to be some sort of predictable procedure while this group is handling the very complex questions and different competing rights particularly for the procedure civil law claims.

Now the comments that Chris has just made on behalf of law enforcement make me realize that perhaps we haven't quite got it clear to all leaders that, you know, my understanding certainly is that law enforcement requests are subject to separate legal obligations according to applicable laws.

And so, you know, I'm certainly our national laws here that Chris and us are operating under would handle those through the exemptions and the exceptions. And so if that needs to be clarified I have no objections to that.

Other than that I think that this is a reasonable enough placeholder for now pending our filler work on the subject. Okay thanks.

Kurt Pritz: I'm done muting.

(Emily): Kurt, oh there you are.

Kurt Pritz: Yes go ahead. I know I'm getting pinged from all over. So thanks very much for that (Emily). Mark Sv, go ahead.

Mark Svancarek: Thanks Kurt, Mark Svancarek. Well thanks everybody for their great interventions. Regarding Bullet 1 of timeline and criteria for registrar and registry operator responses my reading of the first is that reasonable request for lawful disclosure is an attempt to create a defined term.

That's what all capitalized. So agree at the time that you've received it you really have no way to know if it's lawful and we haven't even had a chance to determine if it's well-formed. It was just an attempt to define a term so it wouldn't have to be defined in detail elsewhere to just say, you know, a request has been received, presumably it's well-formed, there's no (unintelligible) it's lawful until subsequent bullets.

Let's see so hopefully that's helpful. I think I had another point but I've been in the queue for so long I can't remember it anymore. I guess I'll have to come back. I'm sorry.

Kurt Pritz: I will check on you at the end. Diane, please go ahead.

Diane Plaut: Sure. Thanks Kurt. I'm so pleased that we are making such great progress on this front. We're in this great place where with the implementation and

roadmap that (James) set out today we now have this Recommendation 12 that could carry us through that we need to have prescriptive procedures for reasonable disclosure requests.

And I think we're in a really good place on come to agreement on how this could work with Alan Woods pointing that it - you know, we're just looking for practical structure here that is predictable and a framework that people could use every day.

So the main things that I wanted to highlight was that I think Thomas' language at the top is important because it immediately draws people's attention to the fact that there – that this release to civil claims and that the – any enforcement procedures that have to be separately undertaken are undertaken according to the law.

And then with regard to Amr's need for the clear lawfulness of any requests and Ashley's I think that all those additions are really important good and for – with these tweaks that we could make it work. And now I think that we need to really focus on practical timelines that the contracted party house thinks are workable and implementable so that we could come up with something that everybody agrees is something that we could put into effect.

Kurt Pritz: Thanks Diane. That was good. Ashley?

Ashley Heineman:Thanks. So I just wanted to make sure you all were aware that I sent around to the EPDP email distribution some very rough and dirty edits to the document to capture at least what I think would address my concerns which is, you know, again we started off as this being, you know, registrars and registries must provide reasonable access.

And somehow this has turned the request must be reasonable which I recognize is part of the equation but the tone of the document, the words used in the document kind of has shifted that.

So I'm just trying to make the document more neutral and I don't – it does – I think my edits don't take away from any of the content or the substance. It's just to more accurately reflect what the intent of this recommendation was supposed to be.

So I hope that's a better articulation of what I did before. And I apologize if Alan if anything I said was taken wrong by Alan. It wasn't my intention. So I encourage you all to look at it and see if that is acceptable. Thanks.

Kurt Pritz: Thanks Ashley. Let's - I'll look at that email now. Go ahead Mark. You remembered what you were going to say.

Mark Svancarek: Thanks Kurt. This is Mark, sorry about that. Just a clarification of something I think that (Emily) said. I think I disagree with something that (Emily) said. So all the stuff about law enforcement I agree with that. But regarding what it is we're trying to define here so and Kurt's comment, Kurt's joke about the side door which he then withdrew. So I'm going to try and create an analogy. Everyone knows that my analogies are usually terrible so I apologize in advance.

In phase two, if we were to create an accredited system I think that's sort of like defining what global entry is at the airport or TSA pre is at the airport. There's an accreditation process and but you still have to go through, show your ID. You can still get refused entry but extremely lines.

And what this is doing is defining what happens in that other line if you don't have global entry? And the creation of global entry doesn't ever eliminate the need for the other line. So this is not just an interim thing that we're creating. It's, I mean it's the first step of the final thing but it doesn't ever really go away because not everyone will be accredited. Not everyone gets global entry. There's always the slow line.

So I hope that explains what we're trying to do here. I don't know like I said my analogies are usually terrible. So I'm optimistic but, you know, whatever.

Kurt Pritz: Thanks Mark. Kavouss is that a former hand?

Kavouss Arasteh That is an old one.

Kurt Pritz: Okay thanks Kavouss. Alan, Alan Woods.

Alan Woods: Thank you. I – yes and very, very, very quick. I just want to say yes, obviously I think that we've made ridiculously good progress on this. And I think that we are close and I appreciate Ashley's suggestion and it does actually make sense to me. I also really appreciate Thomas's wording. And I also understand where Chris is coming from on that but at the same time, you know, we just – I think we do need to be clear on that.

So I think we're close. I think let's stick closer to the lines that we are that we're both clearly comfortable with and I think we'll get that very quickly done. And I think we are very close to an agreement on it.

Kurt Pritz: Great. So I – so this is a summary of where I think we are and this time I did not write down notes so I feel a little bad. So I want to – I think the wording

changes are down to Amr's recommendation about the two day response period and making that certain that there is just an acknowledgment.

And I think the wording in the chat has been accepted. I'm still for putting Thomas's sentence near the end, you know, or in the middle, but if it's the belief of you all that it should be the first sentence out that's fine with me.

I think that Ashley's – I think Ashley's recommendation is gained six acceptance. I think that was a nice catch. So I think that's it. And so if we would we will (unintelligible) where I'm going to put this in the done pile with those three changes and say thank you.

All right ten minute break. So we're going to talk about email communication and data retention and get out of here. And but I could use a break so get a cup of coffee or something so I'll see you back here at like ten minutes to the hour or five minutes to the hour. Let's say ten minutes to the hour.

Hi everyone. We're just set to reconvene. Hey welcome back. So on this agenda item which is email communications quite, you know, quite a bit of research and consideration has gone into a set of compromised language by the – Alan do you have a point of order? Alan? So you're on mute. But I will plunge ahead with my brief introductions.

So I'm sure you've read the email from Caitlin that, you know, introduces the compromise language on email communication and indicates or provides a rationale in the email itself about why we think this might satisfy the concerns of those that have contributed to this discussion.

So I think we'll pause for another 30 second or let, you know, pause for another two minutes and let you read this that's been put up and then we'll start unless Caitlin did you want to provide an additional introduction to this?

Caitlin Tubergen: Hi Kurt this is Caitlin for the transcript. And certainly I can try to give an abbreviated version of the email that's up on the screen. But essentially a couple of days ago we received some noted concerns from SSAC. And we also received a – I believe it was the contracted parties. In short SSAC wanted us to note that the log files could be audited by compliance. And also there was a concern that the contracted parties brought forward that there needs to be some way to prevent abuse of the registrar contact system.

So we attempted to address both of those concerns in the updated language that you can see on your screen. And just for avoidance of doubt there was a request by SSAC to include some language about re-verification of email. And I wanted to note that they Whois accuracy program specification does currently require registrars to re-verify email addresses if they have any information suggesting that the email address is inaccurate such as a bounced email or non-delivery notification message.

Nothing in the EPDP Teams requirements or recommendations will change that requirement as it's a current contractual requirement. In fact Recommendation 3 does specifically note that the EPDP team's work is not meant to be construed to change Whois accuracy requirements. And so that is why that language is not included in the updated recommendation as it's already an RAA requirement. I think that covers it Kurt but if anyone has any questions we can happily address them once you had a chance to review the updated language.

Kurt Pritz: Much better than I did. Yes so let's take three minutes and if – for those of you that haven't finish reading this yet and talk again in a minute.

Okay welcome back everyone. So sorry the line cut on you Alan Greenberg. I just want to before it vanishes - well it's all - yes before it vanishes up in the chat I just want to note Margie's request to include any of the final report a reference to the SSAC concerns and I think and then how it's addressed - that this is addressed with another part of the agreements that ICANN has with the contracted parties. So I think that would be a beneficial thing to add for people that have the same sorts of questions that Margie and (Alex) and others did. So go ahead Alan.

Alan Greenberg: Thank you very much, three points, reference to the must not identify. I thought we decided in Toronto that the temporary spec and therefore our document would require that registrars provide an option that redacted information be displayed but contact information was not technically redacted. It was essentially translated or replaced by a Web form.

Therefore it did not come under this – under that requirement and we were going to add something to make sure that a registrant who wanted the information displayed could allow that to happen. So we seemed to have a contradiction there.

Number two, it's correct that a registrar or anyone relaying messages whether it's through an anonymize or Web form cannot guarantee receipt or delivery of a message. The email system doesn't allow that. However in many cases there are bounces.

And I believe that the – it, you know, if possible, if practical words like that, that any bounced messages be included in the log. Many registrars already do

that. You can't always associate a bounce with a particular outgoing mail but much of the time you can.

And if a balance is received it should be included in the log. A third point is that Caitlin say that registrars, remind us registrars have an obligation to follow-up on messages on information that email addresses may be problematic such as a bounce message. That's technically correct.

But my understanding from a number of registrars I've talked to is they log they bounce messages they get but they don't actually act on them one by one.

So, you know, so they do at some level have information that the mail address may not be correct but as a matter of routine they don't act on it. So I think it's false to say that just because there's a bounce message, the registrar is going to take action. If they do I'm delighted but my understanding is that's not how it works. Thank you.

Kurt Pritz: Thanks for that. So I've made note of those. And if we can hopefully respond to Alan's concern about redaction being that incorrect word that would be good. With it – we - you know, all three questions would be good.

You know, with regard to the very last point I think the issue is whether it's a contractual requirement for registrars to take some action on it. And my understanding is that obligation already exists. How they handle it might be a different issue. Kavouss can you go ahead?

Kavouss Arasteh: Yes having check when you listen to this discussions I suggested we make a slight modification to the presentation before. The issue of email and very less probability or improbability of bouncing of the email should be separated from the issue of the Web form and difficulty of the Web form that the law

(unintelligible). So I suggest that we do it separately. First address the email and then below that we add a note talks about any probable bouncing.

I have received hundreds of emails and very, very, very few cases they are bounce but it is possibility they bounce. But if we did so issue of email separate from issue of the Web form. And the note relating to Web form and relating that the GNSO inclusion establishes a sort of the development how to address the issue is better if you separate them but not in one part of.

So first part of, the first part we deal with the email start when we're saying that all Web form and after that go to the possibility of bounce of the email as a note to the first paragraph. Then the second paragraph said that alternatively should be made to the Web form and then we indicate the digital of the Web form and the need for a development of a policy or a method and so on so forth. So make it quite separate, not mixing them up. Thank you.

Kurt Pritz: Thanks for that Kavouss. I'll kick off Alan if that's - I don't know if that's an old hand but maybe, you know, if we can take these things off maybe it would be good and as we go. So in the chat Marika has provided some wording to address Alan's first comment that had to do with word reduction being an appropriate one. And it seems to have gained some acceptance.

So can we have – so maybe we can get some – is – maybe let's just look at the chat for a minute and see if that - back at 8:03 Marika sought to address the concern with that sort of language on it. It's just been pointed out to me it's not 8:03 for everybody. It's three minutes after the hour. With that Margie why don't you go ahead.

Margie Milam: Sure, thank you. I think I agree with what Kavouss is saying kind of separating it and raising the notes on that. Even though the 2013 RAA

requires the registrars to, you know, act if they have noticed that the email doesn't work that still leaves the gap that the person requesting the, you know, communication doesn't know that the information was down. And so I feel like that piece of it is still missing from the puzzle. And so that's my first point.

My second point is that the notion about the reasonable and appropriate action (unintelligible) as a contact process needs to be fleshed out because, you know, we need to understand what kinds of actions the registrars are concerned about and identify those. That, you know, we think through the costs of things that come through the communications channel. There may be, you know, a decent sized volume of requests depending upon, you know, what the issues are that they're trying to communicate with.

And so I wouldn't want to leave the impression that you can't have a large number of requests going through if they're valid. And so I think that language needs to be fleshed out in order to be acceptable because it could be too far, too big of a carve out and perhaps the registrars could explain like the kinds of things that they're worried about.

Kurt Pritz: Okay. So we're talking about separating those two paragraphs out as Kavouss stated. (James) is next in the queue so maybe he could respond to your last concern as well as say what he was going to say (James)? Yes.

(James):   Yes hi Kurt, (James) speaking and want to make sure I'm following the threads here because a lot of folks are – the conversations moved on a bit since I put my hand up. So I just want to point out that we had this same conversation for weeks if not months during the development of the 2013 RAA and a lot of folks are referencing that document that, you know, this

problem has already been solved. And I think that it's more of an acknowledgment that this problem continue to exist.

A lot of the logic that we're discussing or proposing here today it just – and I don't fault anyone for this but it just it's not thinking at scale. We're talking perhaps on the order of magnitude of millions or tens of millions of email errors per day or per month depending upon the size of the registrar and the size of the frequency. And so, you know, programmatically dealing with that is – and also, you know, going back to a previous recommendation, also noting that we have a that, you know, folks would like to constrain us to certain timeframes for responses and for action and that, you know, that there may be urgent time sensitive or law enforcement crisis type requests buried in that stream of issues that also have to be caught and not lost in the ocean of false positives is something else to be aware of.

But I think it just bears repeating that registrars can be held to the requirement that they transmit a notification. They can be held to the requirement that they keep records, that that transmission was sent. But I think it was Alan who pointed out that requiring a registrar to ensure that that transmission is received, and read, and understood and acted upon are all really outside the scope of what we can realistically be expected to do.

And things like bounce backs occur not just because an email address is false but because email address is full or the inbox or the server is not responding or it's, you know, down for maintenance or whatever. I mean there's just so many different edge cases and particularly when you get outside of North America and Europe where ISPs, local ISPs may be less reliable.

So, you know, again I just want us to be – to put our hats on here and think in terms of a – an industry that's trying to serve billions of registrants and end-

users around the globe and not design a policy and design requirements around the perfect scenario but to try and be mindful of all the ways that this could fail. So that was my intervention. I don't know if that's - the conversation may have moved on the road I raised my hand but that's what I wanted to get into the conversation. Thanks.

Kurt Pritz: So (James) so while your mic is still open I hope Margie's last point - and you sort of alluded but Margie's last point was about the sense that nothing should be construed to prevent the registrar from taking reasonable and appropriate action to prevent abuse. So how – she was looking to make that more specific or narrow that in some way. You know, reasonable is a legal term of ours and so it's hard to argue against that. But is there a way either in maybe it's not even suggesting wording. Maybe it's just providing addition – some additional explanation about what action registrars do take to avoid prevent abuse.

(James): Thanks Kurt, (James) speaking. So just to add that, you know, anything that would be installed that would rate limit, you know, the process so that it wouldn't be for example deliberately flooded or in an effort to DDOS and knock that process off line and make it inaccessible for others, any process that would allow registrars to block the IP address or the login credentials or whatever we end up with, the source of requesters that had known - have been known to abuse the process either permanently or to give them a timeout, you know, if they're abusing.

So I think we can prescribe all of this but as soon as we put it down on paper and publish it in our report, you know, the bad guys are just going to find a way to start engineering around it. So I think leaving it somewhat, you know, ambiguous and saying, you know, reasonable, commercially reasonable, appropriate, you know, et cetera, to prevent the abuse or I would say the abuse

or the, what's the word where someone is just not sharing, you know, the abuse or the monopolization of the contact process would be a good language. And I hope that addresses Margie's concerns. Thanks.

Kurt Pritz: You know, I think that – so I agree with you and I hope others do that, you know, putting specific instances in here would not be helpful because there's always other kinds of abuse. So I think that and I'm channeling Margie here maybe inappropriately but I think she – I perceive she's addressing the case where a registrar says, you know, there's so much abuse that it's reasonable for us not to have to take these steps and so not do it all together. And so making that word reasonable, you know, something other than some sort of blanket exemption from the requirement. Alan go ahead.

Alan Greenberg: Thank you very much. A couple of points. I – with one minor exception which I'll mention right away I agree completely with everything (James) said. And I don't think anything I said in my intervention was meant to differ with that. My one minor objection is to give people a warm and fuzzy feeling. You may want to include the examples you gave of potential abuse not to limit the registrars to those but just to give people a feeling of what kinds of things you're thinking of addressing.

My points were that registrars cannot be expected to follow up every bounce message and cannot be expected to even relay the appropriate ones necessarily onto the original recipient. But at the very least they should be included in the log file if they are attributable through normal automated means to be associated with the given outgoing message. So there is a history of what was going on.

And, you know, other than that I think at least some of us do understand the volumes we're talking about and are not looking to do unreasonable things.

But simply to document what can, should be done if practical by the registers. Thank you.

Kurt Pritz: Thanks very much Alan. Mark please go ahead, first time today.

Mark Anderson: Hey Kurt, Mark Anderson. Just trying to keep my mouth shut but I just couldn't for too long. I raise my hand because I guess I'm struggling with the last sentence in the note. And we have two Recommendations, 1 and 2 and then we have two notes. And, you know, and the last sentence in the second note seems to be creating a new third recommendation but I'm really not sure what this recommendation is – what is meant by this recommendation and what it's trying to achieve.

And, you know, it reads it is recommended the GNSO Council initiates work to develop a reliable safe ways of contacting registrants in cases where their email cannot be displayed. And I guess, you know, I guess this can be read to mean, you know, GNSO Council should invent a replacement for email, you know, which may be a more literal read of this would apply.

I suspect maybe what it is trying to do is create a recommendation that the GNSO Council initiate new policy work which I'm not, you know, I'm not sure, you know, we should or shouldn't be doing that. Shouldn't we be addressing that in our - this in our work?

You know, I – so I don't know - I guess I'm struggling with that last sentence and, you know, I'm not sure what is intended by it and what we can do to clean it up. So I'll just sort of throw that out there in see if I get some clarity.

Terri Agnew: Kurt are you on mute? And Kurt I'm not showing where your mic is muted but we're not able to hear you at this time.

Marika Konings: So this is Marika. Maybe I can take advantage of - Kurt has given me the floor in the chat. So I think that the idea behind this is and this follows I think that the discussion in Toronto and as well the agreement that was reached there in principle that this may be an area, you know, where further investigation or consideration is needed, you know, and on a longer timescale than this group may have and as such it's a recommendation that, you know, the council may look into that.

And I think it's less on purpose I think at this stage because it's not clear indeed whether that is policy work, is it something else? But again I think it was just flagging that this is an area where, you know, several groups have indicated that maybe more work is needed but it's not exactly clear at this stage, you know, what that is or what that may look like.

Now having said that and this is indeed a suggestion to the council. This doesn't put any requirement on the council but at the same time most of the groups around the table here, you know, have a seat at the table at the GNSO Council where there's specific paths in which, you know, topics can be raised either, you know, for conversation or for policy work.

So I think the idea is that, you know, through, you know, flagging it here it will, you know, most likely also be brought up by those groups that you have indicated before that this may be an area for further consideration and as such, you know, it's out here to the report so I hope that explains. And I think I filled the time long enough for Kurt to get back on the call. Kurt are you back?

Kurt Pritz: I hope so. So is there any clarification you would suggest to that wording given Mark's intervention or maybe Mark wants to respond? So let's go to Kavouss and then Mark.

Kavouss Arasteh: Yes first I'll address the issue of the last paragraph of the last part one line of the note. We – I suggest that we replace the combined by some (soft) word the GNSO may need to address this issue. However still we are mixing up the situation. Are we asking GNSO to have a development on addressing the problem of the email or addressing problem of the platform, which one we are asking?

                  If we are dealing with the first one we should just put everything relating to the email in one paragraph and everything relating to the Web form in another paragraph and if in the first part emails we need to address the GNSO to consider the need or otherwise to have some method to address the issue, even should be just below the email and not mixing up the Web form with email.

                  Once again I request that we separate the paragraph and I request that once separated we do not declare that (unintelligible) command that GNSO (unintelligible) that there may be a need to develop something. Thank you.

Kurt Pritz: Thanks Kavouss. I saw – well let's let Mark go because he might have a response to this and then I have some suggested too.

Mark Anderson: Thanks Kurt, Mark again. I guess, you know, what Marika – Marika's response is not what the policy recommendation says right. And so we need to be clearer in what we're saying. And it's also it's, you know, that sentence is buried at the end of a note to which its, you know, it's not even related to.

The nose starts off, you know, I - you know, I think it's, you know, I guess my point is that, you know, we need, you know, if I'm – if I was on the GNSO Council and I received that I don't think I would know what to do with it. And even having been part of the EPDP working group I'm not sure I know what we expect them to do with it and so my main intervention is to ask that way be clear on what we're recommending. Do note that the note is not…

Kurt Pritz: Can I say…

Mark Anderson: …(unintelligible). I - okay then we should say that.

Kurt Pritz: Thanks Mark. And reading the chat and thinking about it I think of it as more of a technical issue than a policy issue or a technical undertaking that would inform a policy. And so I like Alan Greenberg's note or thought that, you know, the GNSO should work with maybe technical members in the ICANN community or technical arms.

So I don't know if it's SSAC or IETF or which is sort of associated with ICANN or part of ISOC I guess. So maybe the note could be reworded in some way and we could take that up as an action. So let's – so we've – and so to get back to the big part of the – Alan Greenberg go ahead.

Alan Greenberg: Yes just a quick note. A note at the end – a sentence at the end of a note will be of interest to some historians who read this report 50 years from now. It's not going to be acted on as a recommendation so we can leave it or put it in or leave it. I'll just note that if someone does develop a mechanism for reliable anonymous communications it'll be a far more use to spammers and phishers than it will be to contacting registrants.

Kurt Pritz: Well that's well put. I think – so I want to get back to the major substance of the recommendations and the wording around that. So I think there's three things we could add to the annotations either precede or follow the recommendations. And that would be the one that noted the SSAC questions and how we think that's addressed.

Two, would be some note that in the recommendation below would, you know, reasonable is meant to take reasonable steps to contact, to combat specific abuses and not meant to – we - you know, it's really tricky to - it's not that tricky but it needs to be done carefully to find the right words.

But, you know, go – it's not a reason for not complying with this recommendation abuses aren't but rather that, you know, specific actions might be taken by registrars to prevent abuses -- that sort of thing.

The third addition might be, you know, some of those types of abuses include and list some of the things that (James) said. And then the fourth thing would be around what Marika suggested way up at the top to address Alan's first concern. So one, two, three, four things.

I appreciate a comment on that or specific edits for this recommendation because we're not – we're close but we're not quite home yet. Kavouss I just want to check back on your concern. So I didn't have a plan for addressing that but is it addressed by that separate note on bouncing or could you describe your concern one more time?

So I'm sorry I'm struggling a little bit here. Maybe somebody on support Caitlin or Marika can you restate Kavouss's concern and why you think it might be addressed? Go ahead Marika. Thanks.

Marika Konings: This is - yes this is Marika. What I understood Kavouss to say was to not mix up the first paragraph with this notion of when emails bounced and what the requirements are there which I think we already agreed would be addressed by a separate note that would explain, you know, the existing requirements that are in place and how those, you know, would also apply to the situation. And I think that was at least what I took away. But if that's not correct maybe Kavouss can type it in the chat what else he was looking for.

Kurt Pritz: Thanks. (James) see - I thought you need to drop a sentence or something. All right and then for those of you who want to keep something about the last sentence in note two maybe you can suggest some alternate wording about, you know, the GNSO or ICANN should explore or have explored this issue from a technical standpoint. I think it's more of a technical question than a policy question. And then the policy could act on any technical developments that are made taking into account Alan Greenberg's warning that it might do more harm than good. But – so I think (James) please go ahead.

(James): Yes Kurt, (James) speaking, thanks. And I'm already late for my next conflicts so I'm going to drop here in a minute or two. But, you know, I think that this goes back to, you know, I don't know who set us up at the beginning of our call is that some of these things are - it's not beholden to us to solve everything now.

Some of these things will and should appropriately be the subject of ongoing work as we figure out what kind of experiences we're seeing in the real world. You know, I'm sure the bad guys are going to find ways to abuse all of this that we haven't even imagined yet.

And so this is going to evolve. And so I think, you know, the goal here should be getting us to these, you know, what we might call the minimum viable

product or maybe in our case a minimum viable policy to just get us, you know, past the next checkpoint when the temp spec expires and set us up for some ongoing work.

So I just – I want to point out that let's not let the perfect be the enemy of the good. Let's get us to the next point and then let's kick off additional work from there, thanks.

Kurt Pritz: Thanks (James). Have a great rest of your day. So I'm going to ask the staff, you know, we can work together on creating language to first make that suggestion that Marika made in response to Alan's very first recommendation. And that we put some language in the annotations or descriptions that are accompanying this recommendation that go to what reasonable means as far as preventing abuse and some examples of that and also a reference to the SSAC recommendations.

So we'll come out with renewed wording on that and with a goal of doing what (James) exactly said. We've got this GDPR compliant email communications scheme and realizing it has to be – well it's already implemented but re-implemented in accordance with this new recommendation and that locks will be in place and then solve the next problem after that after we see how that's working.

Thanks for that Hadia. Okay with that let's go on to the, what I would call the last agenda item, data retention. So there's a discussion on the email list about this. We all worked together to divine the common points and concerns amongst the various emails and developed this alternate wording that's in bold. I think if there's a red line - is there a redline below this? And let's - this just went out I think last night while we waited for some parties to think through where we were.

So the original language is below and then the renewed language is here. So I'm going to call on Kavouss and then right the bold as a new language so I think I said that. So I'm going to call on Kavouss and then we're going to take a three minute break and read this, maybe a four minute break. So Kavouss would you rather talk before or after the break?

Kavouss Arasteh: I (unintelligible) maybe you are (unintelligible) like let's say ten minutes. I come after ten minutes okay?

Kurt Pritz: Okay. But it's four-minute so I'll see you soon.

Kavouss Arasteh: Four minutes.

Kurt Pritz: I don't know when I got so tired. That's a bad reputation to have.

Kavouss Arasteh: Okay four minutes okay.

Kurt Pritz: Okay. So we'll – you'll see the previous language below and the new language above. Ready go.

Kavouss Arasteh: Do you want that I make my point now or in five minutes?

Kurt Pritz: In five minutes.

Kavouss Arasteh: Okay, okay agreed.

Kurt Pritz: Hi. Is everybody back? I thought I'd mention during that - in my upcoming book Secrets of the EPDP that during one of our ten minute breaks during names (unintelligible) I actually showered and shaved during our ten minute

break. So Kavouss did you have a comment or if you typed it here into the chat can you let us know to which recommendation you're referring?

Kavouss Arasteh: Yes I'm talking of Recommendation 11.

Kurt Pritz: Okay.

Kavouss Arasteh: If we can include it as soon as possible and I have suggested that it's too open, is too flexible. This is something important that I don't think that is required so many (unintelligible) as soon as possible and so on so forth do I (unintelligible) as a mark of urgency indicated in document the area and so on and so forth. That's a further suggestion thank you before (unintelligible) previous meeting and I will retain that, thank you or I'll maintain that.

Kurt Pritz: All right, thanks Kavouss. You know, as soon as practicable it's sort of a legal term of art. And so I think it's important to retain that. But we could say as soon as practicable and as a matter of urgency. I think that would…

Kavouss Arasteh: Yes I'm sorry to say that the matter of practice of it is not legal issue. Practicable is used, (unintelligible) possible and feasible. There are so many things. Theirs is impact ability, feasibility, possibility. There are too many things very different legal issue. And I have no problem just to not prolong the discussion to add as amount of urgency. I have no problem to add. That's one and to make it more and rigid or not rigid, more workable and not too open. Okay, I have no problem to add that one as you mentioned.

Kurt Pritz: All right.

Kavouss Arasteh: Right.

Kurt Pritz: Okay, thanks Kavouss. Alan please go ahead.

Alan Greenberg: Thank you very much. I - data retention is not an area of expertise for me. But I thought I recalled that Trang had sent a message identifying other processes that are currently known to require retention past a year. Now I may read that but I just wanted to highlight that because number two still makes reference only to the GDRP. Thank you.

Kurt Pritz: Thanks Alan. Trang I don't know if you want to respond or if anyone else has comments about the language of Recommendation 11? Mark please go ahead.

Mark Anderson: Thanks Kurt. It's Mark Anderson. You know, I not sure I heard all of what Alan said but I think this, you know, I think my intervention might be similar to his so I'm just sort of want to reference the – Trang sent an email on let's see February 5 on data retention.

                   And, you know, I think her, you know, I think her question was looking for, you know, clarity on how the text of Recommendation 11, you know, is intended to, you know, interact with existing requirements, you know, basically, you know, what language would be, you know, replaced, modified, superseded, what language would, you know, remain place.

                   So I think there's, you know, I, you know, I think I'm more or less okay with, you know, the intent of what Recommendation 11 is trying to accomplish. But, you know, I think maybe there's room for us to be a little clearer on, you know, where we're trying to create new policy, where we want to maintain existing obligations or where we want to make changes to existing obligations.

So I mean I think, you know, I think in general this language is close but there's, you know, but we can firm it up a little bit, you know, maybe being mindful of (James)'s previous comments about, you know, (unintelligible) policy. You know, this doesn't need to be perfect but, you know, I think there is some room for improvement here and maybe Trang's email is a good place to start.

Kurt Pritz: Thanks Mark. Could you go ahead please Chris?

Chris Lewis-Evans: Yes thanks Chris for the record. Yes I'm just agreeing with Mark there. I think point one on this recommendation's really good. But I have a little bit of difficulty with Section 2 and I think because Alan has pointed out, you know, the TDRP isn't the longest specified retention period. But if I cut Alan back a long (unintelligible) I think the reason why we've talked a lot on that is I think all parties were able to agree that that was a well justified period whereas some of the other periods were I think Benedict phrased it that the they were just plucked out of the air.

So I think that's the reason why we've hung a lot of our hats on this one year retention period on the, and the TDRP because that justification. So I think we're very close on this. I think maybe it's just Section 2 on this recommendation is tidied up then I think we'd probably be there. Thanks.

Kurt Pritz: Right. So Alan Woods, please go ahead. I'm kind of sorting through all this so I appreciate people speaking up.

Alan Woods: No problem. Yes so yes I'm not going to add very much to this. I mean I of course have been going back and forth with trying on this. And I know I'm probably one of the people at the beginning that was like this is – we need to

be really clear on what we're actually saying here. So yes we are closer. I think I like most of part one of Recommendation 11.

I just would be clear to people about it, it's for the controller to set the retention period and nobody else, just to be clear on that one. And number two I, you know, trying to (unintelligible) about what good points that with other areas but, you know, looking at the documents that she pointed at specifically and some of these data elements that are currently required to be retained by a registrar are, you know, they're somewhat ridiculous and continue to be ridiculous. And there is an awful lot of work that will need to be done.

And I don't know if we need to do it now in Recommendation 11 or not but a lot of work will needs to be done in sorting out, you know, what actually ICANN can claim and make a registrar to retain under the relationship between the two parties. A registrar will probably need to retain a lot of the data that it's currently required in the specification but will do so under their own controllership.

So ICANN has absolutely no claim over that data and cannot support somebody to retain for the reasons that are stated within the data retention specification. And we need to be very clear about that. And I (unintelligible) to me registrar to be very clear about that as well.

Also on the view that ICANN compliance will come back and say that, you know, they have to raise us and just and I think then that they have given us, you know, responses and asked us the questions and we're getting there and what they're - they've asked us.

So they provided us with a list of things that they do normally need retained data for but they're still not quite there in the sense of, you know, I think

they're beginning to understand what exactly we're asking folks why do you need this data retained? For what process do you need this data retained? And specifically from where and from home?

What they've provided to us to date not quite meeting it yet but again this (unintelligible) we can do later on. I'm just saying that there is a lot of work that needs to be done on this but the way it currently stands I think we're probably good.

Kurt Pritz: I think that – so I'm getting my feet under me a little bit here and, you know, rereading Trang's email. You know, we noticed some pushback to some of the language in the previous version of the recommendation. And so this – so there's two issues here I think right? One is if there's other retention periods that are longer than a year what are they? But and so I want to understand that.

The other is when the data is retained to what purpose can it be put? And so really since February 5 which means February 6, this last sentence in the second part of the recommendation number two, was meant to address that concern.

So to the – to that extent I, you know, and specifically to Trang's email that said there's other reasons why retain data are used, you know, starting on day one of when a domain name life ends there's a variety of purposes for maintaining the data probably on day one.

And then the reasons for those different data retention period, you know, the data retention periods or the number of policies that affect that dwindle down. But that data will be used for other policies that are already in place as well as the purposes listed here. So nothing in the – nothing in this restricts the ability of registrars and registries to use it for other purposes.

So anyway that was – I talked for two – I should have not talked for the last minute and a half. The second, this last sentence number two was meant to address that. And I'd ask us to kind of read that carefully and Thomas wording that came after Trang's email that seeks to - he continues with this speak, that seeks to, you know, address the concerns that Alan just raised on behalf of his registrar compatriots and also recognized the concern raised by others and also stated in Trang's email. So let's take a look at that. Kavouss?

Kavouss Arasteh: Yes Kurt. If you add the term and as a matter of urgency I think the recommendation with all the changes cover or meet concerns now (unintelligible) I suggest that you take it. Thank you.

Kurt Pritz: We're definitely going to (unintelligible) as a matter of urgency and thanks for your second comment too there Kavouss. (Emily) please go ahead.

Kavouss Arasteh: No…

(Emily): So thank you very much, okay.

Kavouss Arasteh: … (unintelligible) the second comment - the second part I have no problem and the third part I have no problem and so on and so forth. You can take it if you add in the first paragraph after practicable and as a matter of urgency. Thank you.

Kurt Pritz: Thank you Kavouss. (Emily) please go ahead.

(Emily): Thank you Kurt. I think that this draft as amended is a pretty good job of navigating through quite a complex field. And so AND I like the point that Chris referred to earlier which is that whether or not it's the longest in the

ICANN policies the TDRPs and the best justified for keeping data for that period. And so it's quite a good, you know, reference point for us.

So I just in short to say and thank you for the updated draft and I think it, you know, may not be perfect. There's more work to be done but I think it gets us to where we need to be just at this moment in my opinion. Thanks.

Kurt Pritz: Thanks for that (Emily). Trang, go ahead, welcome.

Trang Nguyen: Hi Kurt. Can you hear me?

Kurt Pritz: Yes, we can.

Trang Nguyen: Oh terrific. Thank you. I just wanted to clarify that the question that we had asked about this recommendation which really regarding whether or not this recommendation is intended to eventually override the current RAA data retention spec as well as much of the requirement in Section 3.4 of the RAA.

So that's the specific sort of clarification that we were looking for to help provide clarity in implementation because it seems like the recommendation is there - is limiting you to the data retained to specifically to just the TDRP.

So essentially that - as our interpretation or what we're wondering is, you know, that essentially there's a way with much of the requirements in Section 3.4 of the RAA and the data retention specs. So we wanted confirmation and clarification around that. Thank you.

Terri Agnew: Kurt I do believe you're still on mute.

Kurt Pritz: Yes I guess Kavouss is right maybe I am tired. So thanks for that Trang. Again I think the last sentence in the new language in paragraph two is meant to allay one of those concerns or address it a little better. As far as our, you know, superseding RAA I'm not sure so I'm not sure if Alan is going to talk to that or something else but let's see. So please go ahead Alan.

Alan Woods: Thank you. You know, again noting that, you know, I'm coming from the registry point of view and I would always need to defer to my registrar colleagues on this.

                From my reading (unintelligible) respond directly to Trang then the answer is absolutely yes because this is what the European Data Protection Board has said quite clearly in their letter that the current retention specifications and expectations for retention on the registrars is in their opinion not good enough.

                So what we're trying to do is map out the beginning of those retention specifications. And I think it's in the best interest of everybody in the community. And to, you know, echo Kavouss I suppose that it should be done as a matter of urgency to clear this up for everybody involved because this is – it does, it should protect that and because this moment the only retention period that we have been able to figure out as having to validate this in law is the transfer dispute resolution policy for one year. So in my – from my point of view absolutely and there is work to be done.

Kurt Pritz: As soon as practicable and as a matter of urgency. (Matt) please go ahead.

(Matt):   Yes thanks Kurt. I just wanted to respond to Trang's intervention and say that my gut tells me that this would replace the data retention spec in the 2013 RAA but I would also caveat that with the fact that we haven't as a stakeholder group reviewed it in light of what's contained in the retention spec

from the current RAA. So we probably have some work to do there as a stakeholder group to confirm that that's the case. But my initial impression would be that yes it would. Thanks.

Kurt Pritz: Dan Halloran.

Dan Halloran: Thank you Kurt and thanks Alan and (Matt). I think like Trang said we just would like clarity on this so we don't have a mess on our hands in implementation. I get so it sounds like the recommendation is that basically we nuke and delete the current – all the requirements in RAA that say registrars have to keep any data and – which has been of great concern to the GAC and others who have said we need the three year requirement. And the current data retention requirements, you know, were set forth in ICANN policy like going back to I think before the GNSO existed in 1999 the statement of registrar accreditation policy set forth all the data elements that registrars had to retain and they had to keep them for three years. And we adjusted that down to two years in the 2013 RAA.

And through a series of waivers we've adjusted that down to one year for registrars, dozens of registrars in the EU. And we relied on that document we circulated earlier that sets forth some of the reasons why, you know, the GNSO pursuits for data retention. So it sounds like the recommendations will require like a redo basically of all the requirements and it's saying that ICANN org should undertake a review of its active processes and procedures which to me sounds sort of like the retention is only for ICANN or purposes which I'm not sure that's exactly right.

For example I don't know if I would categorize the TDRP even as a ICANN org process or procedure. It's a, you know, it's a policy that's implemented by

registries really and by third parties and ICANN org really doesn't have much role in that at all.

And so basically we want to clarity that was the intent to eliminate that. I think and I guess it would be a implementation procedure to go back and rebuild that. It would kind of parallel the work that the EPDP team has done in terms of reviewing all the purposes for publication of data and which elements have to be published exactly but we'd be doing that work during implementation reviewing all the purposes for, you know, all the elements that have to be retained and the purposes for the retention that would be implementation work as opposed to the policy work which this team has done, was a little bit I have to get my head around that too. And thanks. I'm sorry this is up against the 9 o'clock hour. Thank you.

Kurt Pritz: Thanks Dan. I'm going to march to the queue on Alan.

Alan Woods: Thank you. I will be relatively quick on this but I'm a little just taken aback by the statements that Dan just made there because, you know, whilst – just because it's written in a document doesn't - and you've relied upon it and, you know, you've taken it back and then the year and I mean this goes to exactly what the European Data Protection Board has said. They said that there is no justification or concepts behind why you were retaining the data.

So I mean we can discuss on the list because I know that we're running (unintelligible) full stop. But wanted more - what's important there is not as if a registrar is going to turn around and delete all of the data that they have there because ICANN didn't tell them to keep it. Most registrars will keep a lot of this data anyway. But in the meantime it's your retention period, the one that is in big contracts that you are telling registrars to retain is just based on nothing. It's based on a specification which lists data elements.

It doesn't have any reasoning as to why they're being retained and that's where we're saying (unintelligible) to the actual reason, the actual policy specifically that you would require and put into the contract that you require your contracted party to retain. I genuinely don't understand why this is a (unintelligible) surprise. This is what the European Data Protection Board has been exceptionally clear in their comments to you.

So I mean the data protection specification is built on no backups and that's what the work that needs to be done why do you need this data? What basis do you as ICANN org for insisting that I – the contracted parties or that the registrars retain this data? That's what the brain work is trying to get here. And, you know, so as it stands that has not been done. So it's one year for the TDRP as far as we can discern at the moment. But, you know, the registrars will retain that data. But on their own controllership I would expect.

Kurt Pritz: So we've had different language in here in the very first line. We started with ICANN and then we changed that to ICANN org thinking that the big ICANN reasons might be included below. So I, you know, I wonder if it should be ICANN or ICANN org, you know, undertake a review of (unintelligible) processes and procedures, you know, those are procedures in compliance with the policy. So I don't see a big difference in that wording that Dan brought up. Stephanie? Stephanie if you're talking you might be muted unless you take your hand down.

Stephanie Perrin: Hi. Can you hear me now?

Kurt Pritz: Yes I can.

Stephanie Perrin: Wonderful. It's the old double mute problem. Don't ask me why that happens. Stephanie Perrin for the record. I agree with what Alan said. I do find it troubling that we're not clear on this – at this point in time because one of the virtues of a good data map is – and the assertion of control is that you can then do these requisite functions and determine who is in control of what. So for instance ICANN in setting the terms and conditions by which contracted parties are in business can put all kinds of things in there about requirements but without having control of the data or asserting control of the data, right?

The contracted parties can set up their own retention schedules for things that in their control and they will - that they will be releasing under their control but you have to make sure that ICANN is not dare I say, getting it's sticky fingers all over it with policy requirements that are too deep in the RAA. So I think these things really – we haven't done the work in teasing out the different pieces.

So for instance, you know, the financial records will be kept under the contracted parties own sole controllership. And the UDRP might or might not but that's a decision that has to be made depending on the language of the new contract it seems to me because I think that the requirement to conform with UD – with GDPR sort of throws all the balls in the air, just saying.

But all of these retention schedules have to be re-examined in terms of what's legitimate under GDPR and who's got control and who ultimately can get access to the data that's being retained for different purposes. Thanks. Sorry to be long-winded.

Kurt Pritz: Yes I really wanted to hear from (Emily) but I think she's gone. Go ahead Kavouss.

Kavouss Arasteh: Yes I don't agree to drop as a matter of urgency. I agree to that because you have added to that. I have no problem to swap that starting as a matter of urgency and if (unintelligible) practicable. These are complementing each other and both of them have the same meaning as (unintelligible). So I don't agree to drop that. I disagree to drop that. Thank you.

Kurt Pritz: Okay thanks. And Stephanie so I tend to over simplify things. But I think a large amount of, you know, study's been done and that's how we came up with, you know, in looking at all of the existing processes and policies that are in place and that's how we came up with this one year plan.

And I - you know, also oversimplifying it in my bent I think the first part of the recommendation and the reason why its number one is to say, you know, let's look at everything that exists that we – that where we might not have identified it here and figuring phase two of our work if that changes our conclusions here.

Stephanie go ahead. I would say a former hand. So I don't know quite where we're left with this. You know, I heard discussion about there's other processes that are procedures or policies that require retention longer than a year. I think we need to study those and that's what the first part of the recommendation is.

I heard about concerned about other uses of data that are retained for TDRP and I think that's addressed in the second sentence, the last sentence rather of the second paragraph. So, you know, with the exception of Kavouss' change I don't see a change here. So we'll have to take this back to email. But I want to congratulate those who are left on significant progress that was made today. It was a really great meeting. I'm sorry I kept us over. Marika or Caitlin can you take 30 seconds and go through action items and we'll (unintelligible).

Caitlin Tubergen: Hi Kurt thank you. This is Caitlin. And I'll quickly just remind everyone to please review the table that was circulated yesterday. That includes some of the identified issues and proposed path forward from the Leadership Team. Also the Support Team will take note of the proposed edits for Recommendation 10 and Recommendation 12 and insert those into the draft final report that is scheduled to go out tomorrow. I think that covers it Kurt. Thank you.

Kurt Pritz: Great. Does anybody else have any closing comments?

Kavouss Arasteh: Our next meeting is when tomorrow please.

Kurt Pritz: Monday.

Man: Monday.

Kurt Pritz: Yes.

Kavouss Arasteh: (Unintelligible).

Kurt Pritz: All right great, thanks. Look – we look forward to seeing the next version of the final report tomorrow. Thanks very much for the meeting today. Great work everybody. So long.

Terri Agnew: And once again thank you everyone for joining. Operator if you could please stop all recordings. To everyone else please remember to disconnect all remaining lines and have a wonderful rest of your day.

END