ICANN Transcription
EPDP on the Temporary Specification for gTLD Registration Data
Tuesday 29, January 2019 at 1400 UTC

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-29jan19-en.mp3

Adobe Connect Recording: https://participate.icann.org/p1z8zgz8l0w/

Attendance is on the wiki page: https://community.icann.org/x/hZoWBg

The recordings and transcriptions of the calls are posted on the GNSO Master Calendar page:
https://gnso.icann.org/en/group-activities/calendar

Terri Agnew: Good morning, good afternoon and good evening and welcome to the 40th GNSO EPD Team Meeting taking place on the 29th of January 2019 at 14:00 UTC.

In the interest of time there will be no roll call. Attendance will be taken by the Adobe Connect room. If you are only on the telephone, could you please let yourself be known now?

Kristina Rosette: Hi it's (Kristina). I'm only the phone while waiting for today's various updates to download. Thanks.

Terri Agnew: Thank you, (Kristina). Hearing no one further, we have listed apologies from Emily Taylor, the RRSG; Ashley Heineman, GAC; Kavouss Arasteh, GAC; Diane Plaut, IPC; (Dan Sanchez), ICANN Board; and (Mark Svancarek) of

BC. And actually will be on for part of the call and then his alternate, Steve DelBianco, will be on for the other part of the call.

They formally assigned Sarah Wyld, Chris Lewis-Evans, Rahul Gosain, and Brian King as their alternate for this call and any remaining days of absence. During this period the members will have read-only rates, no access to conference calls. Their alternates will have posting rates and access to conference calls until the member's return date. As a reminder the alternate assignment form must be formalized by the way of a Google assignment. The link is available in 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, all documentation and information can be found on the EPDP wiki space. There's an audio cast and view-only for Adobe Connect for non-members to follow the call. So please remember to speak 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 welcome everybody and thanks for the work that's occurred over the last week on the various items that have been put out for email consultation. There's a lot of work flying around, as you know, and I find it confusing too and use different tools and talked to staff about developing different tools to organize that and make it easier to follow.

As late as yesterday we were talking about possibly using different apps for this but we don't want to make too many, as maybe email is not the best organizational application, but we don't want to make too many changes this

late in the game. I'm very sensitive to the comments about the amount of work and the number of sessions as we near the end of this phase here.

In a way maybe I should be like the least sensitive, right, because of what the time (unintelligible) in but I certainly understand about other obligations and I certainly understand about surprises and that you've got your life planned around a certain cadence and a certain set of meetings.

And so, you know, to a certain extent in the very immediate future we leave our head down and work through these remaining kind of difficult issues left for the end and, like I said, keep our head down and kind of disregard all the cacophony around us with all the different information flying around. But we'll develop a methodology for bringing this all back into focus and go into a single product, a single coherent product as we climb out of this phase of the effort.

So I think that through the, you know, starting way back in Los Angeles but certainly culminating in Toronto, we came to conclusions that form the basis of what's going to be substantial and meaningful report. And in addition to the remaining issues I think it's important for us, especially on the support and leadership team, to decide what's necessary for that report to be meaningful going into phase two and being sufficiently substantial to meet our goals and so we'll be taking a look at that too.

So in the meantime, you know, our job, as I said, is to keep our head down. I think, you know, we want to try to close these issues off on email list. I'm beginning to think we might not be able to do that because there's edits, you know, from the spectrum of wordsmithing all the way to substantial edits come in, I realize that in many cases it's likely to be necessary before we close these things off. But I think you've done a good job of making thoughtful comments and making the comments from group and from individuals. So I think that's really good.

I urge you again to focus on what's really important in the recommendations. So, you know, if - I understand that wording changes might improve the recommendation in many people's eyes, at the end of the day five years from now will it have an effect on how we're doing things. So we really want to focus those changes we think have to, have to, have to be made in order to improve that.

So with that, you know, just pay attention -- Marika can elaborate on that later -- but pay attention to the wiki page as the support team is continually updating that with comments that are made on the email list. And our methodology is going to be after as each one of these comment, you know, mini comment periods (unintelligible) internal comment periods by us, I mean they'll close down, we're going to pluck each one, look at the comments and writing across the board and make a recommendation based on that and in some way try to get closure on that, whether we can get closure on email or have to have a meeting.

So I'm very sensitive to the workload and the confusing environment right now that we think will settle out once these email comments are settled. We're going to take those email comments, try to, you know, get to final recommendations upon which we can all agree and then take some steps, some organizational steps so that the smoke clears for you guys and you can see the light at the end of the tunnel, which hopefully is not too far away.

So I think that's all I have. I'd ask, you know, Marika or (Kaitlin) or (Barry) to augment what I said if I missed any of the action items instead of that little soliloquy and ask if anybody on the team has any comments. Hi, James. Please go ahead.

James Bladel: Hi. Good morning, Kurt. James speaking. First off, you know, apologies if my note to the email list was a little short, or I was going to say curt, but it was a little rude yesterday because of the surprise of all the extra sessions that we're hitting my (unintelligible).

Kurt Pritz: Thanks.

James Bladel: So, you know, I pretty much am on board with what you're saying. I want to point out though that's it not just a function of workload. I think it's also important for us to note which of these questions and recommendations could actually benefit and improve with some more time and which of these, you know, if we had six more months would still probably be unchanged or unmoved from where we sit today and not to spend a whole lot more time on the latter.

And that's just something I wanted to put on the table, not, you know, and I'm thinking in Toronto we had a couple of proposals that it seemed like we had a framework for agreement like right out of the gate and then the more people talked about it and the more they thought about it, the further apart we drifted. And so sometimes I think, you know, more time is actually not what we need. It's not the input that we're looking for. So just throwing that thought out there. Thanks.

Kurt Pritz: Thanks. Alan Greenberg, please go ahead.

Alan Greenberg: Thank you. Can we have clarity on what our schedule is next week?

Kurt Pritz: Yes. So the team put out a schedule. What we'll do is, you know, so very succinct and easy question to ask, Alan, knowing it's difficult to answer because it's somewhat predicated on the results of meeting today and Thursday but, you know, our meetings will continue on Tuesday and Thursday.

Alan Greenberg: But let's just make it simple. Before the end of the meeting, can we decide if we're meeting on Monday or not?

Kurt Pritz: (Unintelligible) placeholders. Okay. Fair enough. Thanks. Marc Anderson?

Marc Anderson: Thanks, Kurt. Marc Anderson. I'll ask another short answer that's easy to ask and hard to answer. You know, when - what is our intended date to publish a final, a phase one final report?

Kurt Pritz: So I think, I hate to use the word drop dead, so I think our drop dead date is February 11 and the reason for that is that we need to get the report in the hands of the GNSO Council in time for their emergency meeting to talk about this to allow them to at least look at the final report and we can give them a briefing so they know how to read it and understand it and then at the subsequent GNSO meeting, a week or two later, it would be voted upon. So I think that's that but, you know, that's a short answer to short question and there is some other scenarios too that we're going to discuss at the end of the meeting.

                 So Amr, there's a meeting on the 14th and then I think a meeting two weeks after that. So the purpose of the meeting on the 14th would be to brief, you know, to say, "Here it is. Here's the report, GNSO," and do presentations sort of so they know how to read the report easily. And so that would be the kickoff discussion for them so that they could vote on it in their next meeting and that would still be within the timeframe.

                 Marika's put some - okay. Marika got the exact right GNSO bylaw compliant dates there. Alan?

Alan Greenberg: Thank you. This probably should be something I know by heart but I don't. Assuming we make the deadlines you were just talking about, when do we expect the board to approve this? In other words, did the schedule that was laid out originally allow for any implementation time or was their decision going to be on May 20-something? The reason I'm asking is with the proposal that James made…

Kurt Pritz: Yes. That's in the timeline. Go ahead.

Alan Greenberg: Yes. With the proposal that James made, we no longer need to have something that can be implemented the day the temp spec expires because we have a replacement for the temp spec, assuming we go along with that. Does that relieve the pressure at all?

Kurt Pritz: Yes. We've talked about that and it might. So the current timeline, the way I've just laid it out, and where Marika's elaborated, will allow board approval by May 25 in accordance with their schedule of meetings. The proposal made by James and discussed by others would then provide time for an implementation effort to (unintelligible) activities between them. Whether or not that provisional policy or transitional policy can also take up some time if we don't - if the board doesn't - if we don't finish our work in time for the board to consider it on May 25, that's another question.

I want to kind of channel the James point of view in that, you know, we're very close on a lot of issues and the discussion might necessarily take up the time allotted to it. So for the time being, I want to aspire to the schedules we have without anticipating missing them and try to close off as many of the conversations as we can. Anybody else? Did you have a comment, Alan?

All right, Marika, (Kaitlin), (Barry), any other opening comments? Okay, I assume everybody's got their PCRT open and - Marc Anderson?

Marc Anderson: Sorry, Kurt. Marc Anderson. One more thing I want to raise is just walking backwards from the 11th and thanks for, you know, letting us know the 11th is our new drop dead date and, you know, why we're planning on that. I think that makes sense to do that ten days before the, you know, ten days before the February 21 council meeting is their document filing deadline, so that's as good a date as any for us to aim for.

But I want to just throw out there, you know, we're going to need to work backwards from there a little bit because, you know, we're, you know, all the

representatives -- and this EPDP are representing our stakeholder groups -- and so eventually we're going to need to indicate the level of consensus for each of the recommendations in that final report and we're going to need time to go back to our stakeholder groups to, you know, make sure we have, you know, clear direction on what that level of consensus is or I guess what consensus we should be indicating do we support or not.

And so I want to make sure we're working backwards from the 11th and that we have, you know, we have a final report far enough in advance. You know, ideally we'd have at least a week before we determine consensus so that we can circulate it with our stakeholder groups, you know, and get support for, you know, for providing our consensus.

And, you know, I think this is important because we don't want to rush through this and get into a situation where it gets the GNSO Council and the GNSO Council is receiving instructions not to support it. We want to make sure we have time to circulate and get support from our stakeholder groups prior to that consensus call. So I just want to make sure we're, you know, I know time - we're out of runway as far as time goes but I think, you know, certainly from a registry perspective, we need to have time to take this back to our stakeholder groups, and I suspect other constituencies feel similar. Thank you.

Kurt Pritz: Yes. So that makes perfect sense. To what - and I've been thinking through this myself, and of course when you're talking about consensus you're talking about the consensus within your group to support specific recommendations or purposes for processing data, and I'm wondering - so, you know, I'm wondering if, you know, we have a status where in, you know, 22 or whatever recommendations and seven purposes, you know, we've got, you know, 20 or so of them buttoned up, you know, is it possible to, you know, is it possible -- and I'm not asking for an answer now -- but is it possible to kind of, you know, bifurcate that approval process and start a conveyor belt within your

own groups and saying here's the recommendations that have been put on the shelf that have been - the discussion's been settled by teams.

So if you can, if all you guys on the call can think about ways of doing that, I understand there needs to be a, you know, sort of gestalt look at the whole thing and approve it, but, you know, the necessary steps I think are to look at each one. So to the extent you can lay some additional runway backwards or forwards by taking that approach, let's think about that. But I'm saying that as a suggestion and not saying that to say, you know, adequate time shouldn't be granted for that whole look. So.

Alan Greenberg?

Alan Greenberg: Yes. I'll point out that Marc's suggestion makes complete sense but typically we allow two weeks to do that and we only have two weeks before the 11th, slightly under two weeks. So either we're pipe dreaming completely or something's going to have to give.

Kurt Pritz: Astute observation, Alan. Yes, I know. Margie?

Margie Milam: Hi it's Margie. Yes, I agree completely with what Alan and Marc have said. I think the other thing we really need to understand is the methodology by which we will look at the consensus. Is it recommendation by recommendation? Is it a full report? Like, I think those are the concepts that I think we really need to understand as we go back to our teams, organizations and groups to get the consensus level. So I agree completely with what the others have said. Thank you.

Kurt Pritz: Thanks, Margie. So let's - we're going to discuss this - yes, and so we can get into that too so I think we're going to - we can discuss this in - as part of agenda four, wanting to get to it and I want to get into the substance here. So if it's all right with you guys, let's just do that.

So the first topic has to do with recommendation five and the data elements that are transferred from the registrar to the registry. So we want to go to the PCRT in the summary comments and give you a few minutes to read those. I think that, you know, my characterization of this is might not be right. It might take away from the initial report as we got to these data elements the first time because we did all the data elements workbooks.

We summed up all the different processes, the dispute processes and so on, and, you know, did the data maps and followed how the data flowed around. And then when we summed them all up we had the data elements that the registries needed that registrars should transfer to the registry. So we never really got to the discussion of thick Whois, rather we found that with the thick registries anyway that, you know, certain DRPs require transfer of data from registrars to registries, so that sort of addressed the question without getting into the thick Whois/thin Whois debate.

And so we avoided talking about that and I wonder if we need to have that discussion or we can just rely on the data elements matrix in there and their results. But anyway, that's sort of my opinion and then please take the PCR handy, which I'm sure you do, there's those two documents there, the PCR research and the summary doc that (Kaitlin) did for this one. So I'll start the timer for five minutes and get a cup of coffee -- no -- and we'll read these documents.

Okay. Are we just about good to go? Okay. Well Thomas is volunteering to start up the discussion so that's terrific. Please go ahead, Thomas.

Thomas Rickert: Hi everyone. I hope the sound quality is okay or at least okay-ish. What concerns me a little bit with the comments that we received is that they are asking for a certain thing to take place or not but I think that particularly the question of what data can be transferred is purely a matter of legal assessment.

And I think we've gone through that on multiple occasions during our work that those data elements that you have to transfer from the registrar to the registry to perform the contract can be transferred while the other data elements you can assert a legitimate interest and transfer on that basis. But where a registry is not asserting a certain interest, and thereby allow for the transfer base of 61f, I think we're sort of stuck and I think that this is the basic systematic approach that we have to take when closing this part of our deliberation. Thank you.

Kurt Pritz: Thanks, Thomas. Go ahead, Marc. I'll look at the comments but let's hear what Marc has to say.

Marc Anderson: Thanks, Kurt. Marc Anderson. Yes and reading through the comments on recommendation five, I, you know, it's, you know, many of them are on opposite ends of the spectrum and there's a lot of references to thin and thick concepts. And, you know, I think for our purposes I, you know, I think we need to recognize that the concept of thin and thick don't suit our purposes in this EPDP, particularly in terms of GDPR, which is of course what we're trying to solve for here.

And then in the Next Gen RDS PDP we, you know, ultimately, you know, was terminated, we came to a similar conclusion that, you know, thin and thick were specific, you know, specific terms with specific meanings, and what we developed in that working group I think one of the things that we did well was we identified what we called the minimum public data set. And that was sort of the, you know, what was to be, you know, the baseline set of elements that were required.

And of course, you know, registries, registrars should be free to add additional elements on top of that. I think, you know, I think it's our purpose seven -- hopefully I'm getting the right number there -- talks about additional eligibility requirements for example.

But, you know, but I think, you know, the point there I'm trying to make is, you know, a lot of the comments focused on thin or thick, one or the other, but I think that just doesn't fit what we're trying to solve for here and what we're trying to, you know, what we'll come up with at the end, what will come out won't be thin or won't be thick, it'll be something else new altogether.

We're replacing it with a new set of data elements that are required to be processed. And I think, you know, others have mentioned this and so I'll just say, you know, we, you know, under GDPR we have to have a purpose for each of these processing activities, each of the data that we're processing and we have to be able to justify it under the terms of GDPR, which includes things like data minimization.

And so if we define what is and isn't the minimum set of data, which, you know, I think we've taken a stab at in the initial report, and be able to tie that back to, you know, purposes or reasons why we need to do that, then I think we'll, you know, we'll have addressed, you know, not just our tasks that we've been set up to do by the GNSO Council and our charter but also the comments that many people have posted.

Marika Konings: Kurt, if you're speaking, I think you're muted.

Kurt Pritz: I was doing really well too for a change. So I think - thank you very much, Marc, and unless you or Thomas disagree I think your comments are in alignment. And so to reflect that I have the same understanding and to restate it for everyone else that, you know, we're saying that the approach we took at the outset was essentially the approach in that we developed our purposes for processing registration data and then did the data analysis, the data element requirements and transfers and disclosures for each of those.

Admittedly we're going through a correction of those now to make sure they're correct but - the way of going about that was correct, and at the end when we finished that, we saw from the various purposes that a number of

data elements had to be transferred to registries in order to accomplish that. And so those data elements, you know, sort of regardless of the thick/thin debate, the data elements that are required by the purposes we've developed are identified in this recommendation five so essentially remain - would remain unchanged, pending the outcome of the data analysis that's going on now.

And then I have two really brief corollaries to that and that is to make sure that we capture the registration data for those registries that have registration restrictions, so make sure that's part of that. And also there's individual cases based on business models that registries might make to registrars that the necessity for - there's a necessity for a 61f reason for transferring that data over. That would be essentially dependant on the business model or the registry.

But I think I said that in a semi-coherent way. Margie?

Margie Milam: Sure. This is Margie. Regarding the thick or thin conversation, I didn't think it was our prerogative to actually eliminate a consensus policy, which is what we would do if we took away that provision. And I think if that's the path we're going to go, I feel that the only justification would be is it against GDPR to have a thick registry? I mean and that's certainly something in the legal team would go ask (Ruth).

But absent that, I think it's probably outside, you know, the perimeters of this group to, you know, entirely delete, which is what we would be doing, a consensus policy that we developed for many years. And we can certainly go back to the rationale for the policy in the first place. I imagine that's probably in the final report from that consensus policy PDP. You know, from our perspective it's better to have the data at the registry level. It makes a lot of sense to have it at the registry level for a number of reasons, and so I think that's something we should discuss as to whether we're, you, know, at a position now where we're no longer going to support that consumptive policy.

Kurt Pritz: (James), thanks Margie, I'm not ignoring your comment at all, I'm just letting – there's two responses ahead of me so, thank you for that.   James.

James Bladel: Hi, Kurt, James speaking, sorry it's a little slow on the unmute button so, just wanted to raise the point that both registrars collectively and a number of them individually have pointed out that from our perspective, we're not opposed to transmitting this information to the registry. However, I think that we have maintained that whether we do or not is kind of predicated on there being a legal justification for that data sharing. And that that case needs to be made outside of some of the functions that are covered by other purposes.

So, for example, data escrow covers things like business failure, business for technical failure of a registrar and so forth. So, I think that, you know, again we're kind of taking this, you know, you could say we're sitting on a fence but I think we're more agnostic of, you know, whether we collect and share the data with registries or not is very much dependent upon the registries making the case that we must.

And so, I think to Marc's point, I do think that we need to kind of change our vernacular from, you know, when we talk about thin or thick, you know, Margie's correct, we have this consensus policy that all registries must be thick but we're kind of taking a machete to all of our contracts and consensus policies right now so, I feel like, you know, everything is on the table and up for question and whether we re-visit the intentions of that policy, whether we take a look at the, you know, previously thick registries and talk about paring down their data set, which I think is part of our recommendation, you know, I think all of that's on the table.

And I think flipping it around, and I hate to put words in Marc's mouth here, but I think flipping it around I think it's really somewhat problematic if we start talking about registries and registrars being compelled to share data with a registry that doesn't want the data perhaps. I think that opens up an

interesting venue as well, particularly if they can't make the case to why they should need it.

So, I just keep going back to the registry – registrar position which is we'll share the data, we're not opposed to it, but you have to tell us why and help us make that case. In some cases, I don't see the registries wanting to make that case, thanks.

Woman: Kurt, you may be muted.

Kurt Pritz: Thanks, I was in deep thought, Alan Greenburg, please go ahead. Thanks for your comment James.

Alan Greenberg: Thank you, without talking about the subject itself, it seems to be a perfect subject to ensure that we don't come to closure by any date, never mid-February 11th, just a thought.

Kurt Pritz: Thanks Alan. Alan Woods.

Alan Woods: Thanks, just in relationship and to follow up what James is saying there, I'm not going to add very much to it, I mean, I think, you know, the position of the registrars is pretty reasonable on that. And I think, you know, from a registry point of view, there is a lot of new GTLE registries that can meet under 61F, specifically requests on, you know, there are two specific ones that come to mind straight away and not as, you know, escrow and for enforcing accessible use policies in terms of conditions, which are really a new creature when it comes to new GTLE's and the expectations of the ICANN contracts on that.

So, I mean, I think we can definitely come to an agreement and I completely agree with Marc, you know, this is no longer a center stick, we are searching to find a minimum data set, minimum data set is the best of both worlds, the fact that we are justifying from a data protection point of view, that data which

will be collected for the purposes and that they are justified on a legal basis. So, that is the minimum data set, this is not a question of take or stand anymore.

So, I think we can move along, absolutely.

Kurt Pritz: Thank, one thing and correct if I'm wrong is that essentially, you know, our previous work in nation fives has much of the data that's collected by registrars, has to go registries for at least a couple of these purposes, you know, I think URS might have been one of them. But that approach does result in registries receiving a significant amount of the data. So, from a practical extent, registries can and probably will receive a lot of data.

Going to the other side of it, I'm not so sure that we want our headline to be, you know, EPDP group blows up thick who is policy without some consultation with the group that's implementing that. So, the group that's implementing that is, you know, taking into account the various factors that built up that policy including the rationale for doing that. And I wonder if that we – there's some way out of it that says that, you know, we're going to go down the same path we did for the initial report and all the purposes, the data elements where they've got to get to and these are the data elements that are going to be transferred to the registry plus whichever other ones they need either by necessity for their contract or because of an interest, you know, that happens to be a business interest or something like that.

But then, you know, throw over to the IRT on thick versus then, you know, in our work we've identified that transfer of data or disclosure of data or prefacing of data, that's a better term, you know, requires one of these legal basis so, in your contemplation of this implementation, please take this into account and ensure that if you're making these transfers or disclosures that you have a legal basis for it and we met with them. As Alan Greenburg said, I think that would be a fairly long discussion and too long that we have.

So, my pitch would be for that, that we leave this essential biz and make that notification to one of our other recommendations, a very specific recommendation to the IRT to take account and our findings. Hadia and then Marc.

Hadia Elmininiawi:Okay, thank you Kurt. So, what you actually said was what I was partially going to say but, we don't need actually, you know, as Marika put rightfully in the chat, we have another recommendation which is the recommendation number 22, which speaks about thick and thin. And so, I would think that we don't need here to think much about thin registries, we just need to look at the recommendation as it is, recommendation 5, and it refers also to recommendation number 4, and leave this talk about thin and thick to the recommendation where there is a referral to it, which is recommendation 22, thank you.

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

Marc Anderson: Thanks, this is Marc, and I'm very mindful to what Alan Greenburg said, you know, this is a topic that, you know, we could spend, you know, we could probably spend months on this topic alone and, you know, we don't have months. And so, I'm very mindful of the point, you know, Alan made that, you know, we need to find a way to move past this if we're going to, you know, if we're going to get to a February 11th deadline.

You know, I want to, you know, I do want to just sort of, you know, state, you know, the obvious, you know, our, you know, the recommendations that we're making, the recommendations that we made in the initial report and, you know, what we're, you know, what we've drafted in the, you know, in this first draft of the final report, you know, really, you know, don't co-exist with the recommendation of thin or thick, you know, what, you know, what Thomas put in chat, you know, it's blown up already, you know, that's sort of a reality, you know, there's, you know, we've defined the data elements that are required for each of the processing activities.

And the result of that is not thin and it's not thick, it's something new altogether and so, you know, we can't sort of think in terms of thin or thick anymore, you know, we've defined a new, you know, a new set of requirements that really, you know, don't co-exist in this data concept of thin versus thick. So, we really need to find a way to move past that.

And I'll take a quick second to speak, you know, as somebody who's on the thick implementation team, you know, I'll say, you know, that we, you know, have put our work on hold because that team hasn't met in a very long time really as a result of GDPR and sort of like many other groups pending the results of this. So, you know, there is a thick implementation team out there that's really on hold pending this.

Kurt Pritz: So Margie, I think, you know, I think what I'm hearing from the group is that we've gone about this in a methodical way and, you know, and I think it would be for us to, you know, toss this, you know, send this remaining issue back to that IRT, you know, as everybody is saying, given the time constraint but giving them the opportunity, Alan.

Alan Greenberg: I think Kurt may have called on me, I'm only hearing one word out of ten from Kurt. Can someone confirm?

Terri Agnew: Hi Alan, this is Terri, I can.

((Crosstalk))

Kurt Pritz: I'm sorry you can't hear me Alan, I don't know what it is but please.

Alan Greenberg: Alright, someone needs to fix Kurt's line but I'll make my comment, I am somewhat lost at this point. We're having nice generalize discussions, I don't know what anyone is proposing or even what the comments are proposing that we're looking at that we change in this particular recommendation. Are

there specific elements that people believe we either should be adding or subtracting from this list? Because I am somewhat confused as to what we are actually talking about. We had a concrete list in the interim report and I'm not quite sure where we are right now although we're having a really interesting, wide ranging discussion. Thank you.

Kurt Pritz: Hi, this is Kurt, can everybody hear me?

Man: I can.

Kurt Pritz: Okay terrific, so, I was – I think we have a concrete proposal, I think that proposal is to leave the data element analysis we've done and the recommendation that we have for number 5 in-tact. That element might change pending the work of the team that's working on the data elements, but that shouldn't change the recommendation. I think that we've decided to Hadia's comment about recommendation 22 to re-issue to the IRT for thick who is explaining the reason why we sent back to them and that would be using Thomas's argument that they must find appropriate legal basis for such a data transfer.

So, I think that's where we are. Are there any comments or is everybody in agreement with that? Okay terrific, so, I'm going to declare agreement on this one and go on to the next part of our agenda.

Great so, the next part of our agenda has to do with recommendation 12 which is reasonable access. This is where Alex Deacon did some work, I think Alan helped him out somewhat and a couple of other helped him out. And so, I think what we'll ask staff to – there's an original version of this and then there's a new version of this that Alan and a couple of others, Marc – let me start again – that Alex and a couple of others put together. And I guess put that up in a clean version or a red line version, it does matter, and, you know, if everybody doesn't have it ready just give us a couple of minutes to re-do that. The link to that document is also in the agenda. So, go ahead.

Marc Anderson: Kurt, I've got my hand up, can I speak?

Kurt Pritz: Marc I see you have your hand up.

Marc Anderson: Thanks Kurt, this is Marc Anderson, I guess could you restate where, you know, what the conclusions to the discussion on recommendation 5 is? I think, you know, it wasn't super clear to myself and others exactly where we wound up on that.

Kurt Pritz: Why don't – why we're reading this, why don't I collaborate with staff and let's type it up so that it's clearer than my words and then we can read it and I think that will be better for all us than for me to attempt to that. Okay everyone, we're just doing some wording here.

Mika, you ready to put some wording up on the previous discussion or with our discussions on recommendation 12? I'd like to close off the earlier one if we can.

Mika   Yes, thanks Kurt, this is Mika, I composed the language in the chat that kind of staff has taken away and as a reminder, this is the language that in response to the comments and concerns that have been flagged and obviously this could also be a note that's included in the final report in relation to this topic.

Kurt Pritz: So, I don't see it yet, are you planning on putting it in the big window or where? Or is it just in the chat? I see.

Mika: Yes, I just put it in the chat.

Kurt Pritz: So, it's kind of – where's the first part?

((Crosstalk))

Man: I'd just like to comment on the recommendation 5 if I may?

Kurt Pritz: Yes.

Man: Thank you and thanks Alex for allowing me to speak first, there has been a vivid exchange on this in the chat but let me speak into the record, I'm not sure whether we actually reached consensus that we would pass on this work to the IRT. I think it's – or I have doubts that are shared that the proper place to put this is in IRT. Also, I think that the group has demanded the information at its fingertips to create part of this. So, what I heard in our discussion that the language of recommendation 12 is – shall remain and that for the rest that is made to the text of the recommendation, the reference to the data elements that we would discuss this when we discuss the data elements.

              But I have not really heard that we wanted to just get rid of that piece of work as much as would probably love to, and then put it in the hands of the IRT for the committee. Thank you.

Kurt Pritz: So, there's been notes the way Mika put it up in the chat, that's one by now to emulate that concern Thomas? Alright so, it's certainly different than the way I put it in my verbal discussion.

Man: Sorry for being difficult, I just get a sense that our discussion ended somewhere else than what you summarized. I'm okay with other language to summarize where we are, but I think that I would really appreciate some help or be advised that I'm on the wrong path. I think we need to have transparency about where we are and what the next steps are in recommendation 5. And I'm not clear on that. So, it may just be me.

Kurt Pritz: I'll let Marc go and then continue that discussion and see if we can finish it.

Marc Anderson: Thanks Kurt, it's Marc, you're not alone and I agree with your sentiment there. A couple of people have noted this in chat already, you know, the IRT can't create or change policy, it's just, you know, it's about advising the implementation of policy, you know, and there's three policy recommendations coming out of what I think is PDP, one of which was all registries, you know, current and future should be thick. You know, that, you know, that recommendation, you know, thick is, you know, is a very, you know, I guess I'll say, you know, with the possible exception of the billing context, you know, thick is a pretty well defined, you know, has pretty well defined meaning and as part of this PDP, we're changing that.

You know, we're changing what is required for the, you know, what data is required to be processed in and transferred, you know, and so, you know, I'm, you know, I'm concerned that, you know, if we just throw this over the fence to the IRT, an IRT that's not empowered to create or change policy, then the best they can do is refer it back to GNSO council which I don't think is, you know, the right solution here. I think we're empowered to deal with this and that, you know, we should address it as part of this PDP. Thanks.

Kurt Pritz: Thanks Marc. Margie wanted to provide a clarification, so, Margie if it's okay with you, I'll let Marika speak first.

Marika Konings: Yes, thanks Kurt, this is Mika, I just want to clarify that, you know, back in recommendation 22, yes can you hear me? Back in recommendation 22, it's not specifically about, you know, referring something to an IRT, it's just making the case that, you know, based on the outcome of the work of this group, you know, further analysis will need to be undertaken in relation to the impact on existing consensus policies.

And as there is an existing consensus policy, an analysis will need to be made, you know, what is the impact on that existing consensus policy and, you known, once that analysis has taken place and there could be time to

have a recommendation on how to address the concerns that may be flagged or, you know, what may no longer be possible as originally recommended.

But the various avenues for that, if it's specifically related to implementation issues, the IRT may be the appropriate vehicle. However, if it flags more policy questions, it is something for the GNSO counsel to then address. So again, I just want to clarify that recommendation 22 is not about, you know, referring this to the IRT for them to look into. It's really about, you know, making sure that whatever consensus policies are already in place that these are updated accordingly to align with, you know, whatever this group is recommending.

And in some cases that means that, you know, certain parts are over written or in certain cases it may also mean that existing consensus policies are not – no longer implementable as they were originally written. But of course, that does not prevent the GNSO counsel to undertake additional work on those topics to further explore them and see if how policy recommendations will need to be modified if the desire is there to still, you know, require similar – with similar requirements in place. So, I hope that helps – that clarifies the situation a bit.

Kurt Pritz: Thanks Marika, go ahead Margie.

Margie Milam: Sure, this is Margie, and I support what Marika just said. I think that makes a lot of sense, I think the public comments did support the continuation of thick and so, I think it would be problematic at this juncture to shift course and make a recommendation which is different than what we have – already have in the initial report.

Man: Did we lose Kurt or is it just me?

((Crosstalk))

Kurt Pritz: Thomas, go ahead.

Thomas Rickert: Thanks Kurt, to be quite honest, I think we can't shy away from concluding our deliberations on recommendation 5. It's one of the questions that we're charted with responding to. I think we have the text, we have done some legal groundwork so, we have something in our initial report and we need to come to a conclusion. And sending this over to the IRT to see whether the, you know, conflicts with the policy need to be addressed, which they surely need to. We have to come up with a clear proposal as to where the data that's being collected by the registrar can travel, for what purpose and on what legal data.

So, I don't see any way for us to not take on that work. And additionally, we have done work on this, we've discussed this at length and now what we're supposed to do is to see whether the public comments received warrant changes in the language of recommendation 5. And I'm still unclear as to where we are with that. So, sorry, I'm not – if I'm too difficult or talking nonsense please let me know but I'm really.

Kurt Pritz: Thanks everyone, so, I missed a great deal of Margie's comments so, I'm going to ask Marika again to like sum up where we are and take in Margie's comment into account and see if we have, you know, a final forum. Because I think we're right on top of where we need to be.

Marika Konings: Yes, thanks Kurt, you know, I'm slightly confused because I think we're all saying the same thing and maybe it's not reflected accurately in the wording but I think what we're all saying is that this group has made the analysis on, you know, which data should get transferred from registrars to registries and has provided, you know, the legal analysis and the lawful basis and the purpose for which this should happen. So, that basically becomes now the recommendation when it comes from transfer from data from registrars to registries.

And similarly, I think several people have noted that we should move away from the language of using thin versus thick, that may be in the data set or basic set and again, I think that's something that the data element work group small team will take on. And I think we all also agree that, you know, the impact of these recommendations needs to be translated or over write any existing policies that may no longer apply in the light of, you know, these recommendations, not taking away the ability from the GNSO to undertake additional policy work on some of these issues should they consider that desirable.

I think we're all saying the same thing and again, maybe we can refine the wording a bit to make sure that is all in there. But I think that is rather a part of what I'm saying and agreeing with, I hope.

Kurt Pritz: So at the end, we're left with the recommendation the way it was written originally. We're redoing some of that data element analysis. And we're using Recommendation 22 to refer our findings to these other policies to see if it has an impact on those, those three things. Okay, really good. Sometime over cocktails I will share with you what goes through my head in – while we have these discussions, and then apologize for overcomplicating them.

On Recommendation 12 I think (Alex) was going to take us through the amendments he and others made to Recommendation 12 and their proposal. So (Alex) if you want to get at the start of the queue, that'd be great.

Alex Deacon: Sure Kurt. Thanks everyone. This is (Alex). So let me tee this up. So, you know, first remember that Rec 12 isn't about access, right? This is about the temp spec concept of reasonable access, which I believe should be called reasonable disclosure.

Specifically we're answering the charter question regarding definition of the term "reasonable" and for the detailing the existing bullets in the initial report.

So at the end of the Toronto meeting, a small team discussed several topics related to Recommendation 12.

The first was the concept that the process for reasonable disclosure is not an interim solution but one that needs to exist in parallel with whatever future access model is developed, one that we will discuss in Phase 2. This allows us to deal with kind of ad hoc queries for those who may not be accredited in the future.

Basically, what we're saying is reasonable disclosure should neither wait for nor be replaced by any future standardized or unified access mechanism. That was the first.

The second we discussed adding additional details to the existing bullets in the Rec 12 texts, mostly regarding concepts of timeliness, specificity. And so the first one we discussed were instructions and details as to where requests should be submitted.

Oh, and by the way I should mention that as (Sarah) mentioned in the chat, the registrars did propose some changes to what you're seeing on the screen here. So just keep that in mind as we walk through this. Sorry.

So with regard to the additional details in the Rec 12 bullets, the first things we discussed were instructions and details as to where requests should be submitted. The second one is we added language regarding specificity as to what should be included in disclosure requests. There's several suggestions there.

Third we discussed timeliness criteria in terms of the response. And so two time frames have been identified. The first is for an acknowledgement of receipt of the requests and the second is for the response to the request itself. In my draft I didn't specify values there but simply used variables X for

acknowledgement and Y for response. And these values should be reasonable.

And then finally there is text regarding specificity of the response including details and justification as to why a request may have been denied. Remember we're not making any assumptions that requests will be approved here. We understand that, you know, depending on the legal basis that the response may not include any data. That's fine.

But we are, you know, given the specificity and details in the requests, we're hoping that we could outline some parameters regarding the response. And this could include, you know, some information regarding as to why a request was denied, some justification and to give the requester some understanding as to why they didn't receive the data.

It could also include details as to - you know, for example if a request doesn't contain the correct set of information per the policy or is malformed, it may suggest - information may be returned that suggests or indicates why, what information is missing.

What we want to do here is avoid any kind of unjustified blanket denials wherever possible. We want to get a feedback loop if you will so over time requesters understand what is required for them and that there is an understanding, you know, so we can improve the process of requests based on information received and justifications that we may receive back in responses from the registrars in this case.

And then finally kind of before I share (unintelligible) full list, we discussed the term - you know, in the recommendation as it currently exists, it states - you know, uses the term or the phrase "parameters for responding to lawful disclosure requests."

We discussed that that may not be a well-worded, and that for example it's the disclosure process itself that is lawful, not the request. And so we discussed perhaps updating that text to use the phrase "request for lawful disclosure." So that's kind of things in a nutshell. And again I mentioned (Sarah) and the registrars had some comments, but I'll leave it at that. And we could discuss things further. Thank you.

Kurt Pritz: Thanks very much for that detailed disclosure. I was going - the registrars in particular wanted to opine on their amendments to this. So (Sarah) if you wanted a line on that, I'll let you cut in line. But if it's just a general comment, then we'll go to Alan. So (Sarah) did you want to comment on the registrar edits to this?

Sarah Wyld: Yes, thank you. I did, yes. So I want to thank (Alex) for explaining so clearly the changes that he had proposed. And I think a lot of this was really good work, so I was glad to be…

Everything that I sent to the mailing list still mostly stands, so I'll just outline briefly the specific points that we wanted to talk about. So the proposal that are linked to the process should be provided in any RDS response. Actually I quite liked (Alex)'s response to my response. I was asking or questioning whether it fit in with the consistent labeling and display policy.

And then (Alex) had proposed where exactly that information could be added. So I am no longer opposed to that. That does not seem unreasonable to me. Another thing we had mentioned in our e-mail was that the minimum information that should be included in a reasonable disclosure request actually depends upon what is the legal basis the user is relying upon to request the information.

So we just keep in mind that it might be the minimum but it might not be applicable to all scenarios. And I had noted that (Alex) agreed with that comment.

A couple other comments just in terms of the timeline, acknowledging receipt of a request I think is appropriate, but I don't want to tie the contracted party to any specific timeline because, you know, we have different business models. Different time zones are also a concern.

So I don't want to get too specific. I like the language "without unreasonable delay but ordinarily not more than two business days." That seems reasonable to me. And then in terms of the contracted parties responding within a certain period of time, I'm very hesitant to tie anybody to a specific time frame, although I do think that response should be provided.

If any timeline is required, I think it should be 30 days and not aligns with the GDPR time frame for providing data to the data subject. I know it's not exactly the same thing. Like that is often specific to the transparency requirements. But I do think that that is still an appropriate correlation that we could use 30 days there.

If the data subject themselves can only get information about themselves within a 30-day period, I think that's fine for somebody else as well.

And then finally just regarding the one of four ways that the contracted party must respond, I know some other people have more to say about that than I do. But I think requiring specific information is just - it's too detailed. We should expect the contracted party to be reasonable and provide a reasonably detailed response. But I don't think we need to spell out this clearly the four possible ways of responding. Thank you.

Kurt Pritz: Thanks (Sarah). And we're going to try to capture these recommended changes as they're spoken. Alan, please go ahead.

Alan Greenberg: Thank you. And thank you to (Alex) obviously for pulling this together. He says it was a small team discussion. I would describe it more as a bit of a

fever dream at the end of three days. But we still did it, and so thank you to (Alex) for pulling that together and starting off the discussion on this.

(Sarah) just to (unintelligible) – which I'm quite happy because that means I don't have to repeat anything – I completely agree with everything that you said on that. I will add one extra thing there that was pointed out by actually (Christina). I'm just passing this on to give credit where credit is due, that on the last page as well in – let's see – Number 4 on the very last page it says, "all responses denying access to all data."

Again we should keep that in line with the terminology that we're using. So it would be "all responses denying disclosure of data." But apart from that I would just second everything that was said to - that (Sarah) just said there, so thank you (Sarah). And thank you (Alex).

Kurt Pritz: Thanks. Go ahead Farzaneh.

Farzaneh Badii: Thank you Kurt. Farzaneh speaking. So I just wanted to - I agree with what (Sarah) said and general registrar comments on this. I just wanted to reinforce that in their response, in the request, when the requester asks for general information each data element should be justified why they need that data element and that personal information. So that justification has to provided. I just wanted to reinforce that, thanks.

Kurt Pritz: So like justification for each data element of the request, something like that, right?

Farzaneh Badii: Justification, I mean, their legitimate interest that they have and how it can be proved, you know, by using the data elements in specific, so why they need the name, why they need the e-mail, why they need the address. I think these should be in the request, thanks.

Kurt Pritz: Yes. Okay, thanks. Amr, please go ahead.

Amr Elsadr: Thanks Kurt. This is Amr. Pretty much agree with everything (Sarah) and Farzi said. What Farzaneh just said is one of the two things I was going to bring up. I believe she is correct in that, you know, the third party's legitimate interest needs to identify those as well as the corresponding legal basis as opposed to leaving this to the registrars or registry operators who are being requested to disclose data.

My other point is, you know, I think the proposal (Alex) circulated is largely a very good one. And if I'm not mistaken, I think (Steve) had also done quite a bit of work on this as far back as Barcelona. I had one comment that, you know, I wouldn't necessarily have an opinion on one way or another, but I imagine that contracted parties might.

And it's about, you know, the sort of how reasonable disclosure requests are (unintelligible) in this proposal and the number of bullets that include, you know, what a requester must submit to a registrar or registry operator I suppose in order to have a request processed.

One thing I'm not clear on is, you know, if we're specifying the number of business days in which a contracted party must respond, you know, to confirm that they received a reasonable disclosure request or respond with the data being requested, how does that play out in terms of the volume of requests coming in?

So if you have one requester submitting, let's say, a very large number of disclosure requests, does that affect whether they are reasonable or not? And does that affect the number of business days in which a contracted party is required to respond or not? I don't see any - I might have missed it, but I don't see anything, you know, alluding to that in the (propo) and was wondering if it's something that we should address or not. Thank you.

Kurt Pritz: And did (Sarah)'s (rec) Amr where she talked about the timeline for responding, maybe, maybe not. (Ashley), welcome back.

Ashley Heineman: Hi there. This is (Ashley) with the GAC. And yes I've been gone for a while so apologies in advance if anything I say has already been discussed and dealt with. But I think in large part I just wanted to say that I've always thought that the efforts on this recommendation have been really important in terms of setting expectations for both parties.

And I think this really is going towards achieving that with or without more detail. You know, I'm kind of sympathetic to some of the things that (Sarah) is saying. And it's not clear to me that in all cases we need as much detail, but I'm certainly supportive for as much detail as folks are willing to agree to.

So all that being said and recognizing that I think this is going to help, you know, both those who want to make the requests as well as those of the contracted parties so you're not constantly being pestered by those making the requests so everybody understands the rule of the road…

I just wanted to ask, so at the beginning of the recommendation, it simply states that the EPD team recommends that the implementation take into consideration these criteria. And I'm not sure entirely like what's been discussed and not discussed and agreed upon. But it seems to me that's a bit weak language for something that I think is so incredibly useful to all stakeholders involved in this.

I was wondering if there was any appetite to strengthen this event. Even I'd be willing to, you know, concede a bit on, you know, some of the, you know, strictness of the timelines and everything just to have, you know, something in place that is going to be implemented as opposed to just being considered. So I just pose that to the group. Thanks.

Kurt Pritz: Thanks (Ashley). I think - well I'm going to go ahead down the queue.
                Thanks for your intervention. James please go ahead.

James Bladel: Thanks Kurt. James speaking and also wanted to thank (Alex) for teeing this
                up. And as a comment I think (Sarah) touched on it but Amr raised it as well.
                I wanted to talk a little bit about the timeline and scale.

                You know, I think, when we think we should respond within a certain number
                of days or a certain number of hours, we're thinking in terms of what is
                reasonable and convenient for the party making the request. I think we need
                to maybe switch hats here a little bit and think about the fulfillment of those
                requests.

                You know, I think by some county, you know, we chatted with our friends at
                VeriSign and we have our own data. But, you know, prior to May 29 the
                WHOIS system could be expected to serve requests in the order of
                magnitude of several billion per month.

                And noting that some portion of that was, you know, just checking to see if a
                domain name was available and some other portion of that will be taken care
                of by redacted/non-redacted and some other portion of the non-redacted will
                be that the request is not legitimate, when you whittle all that down, you could
                still be talking about, you know, millions, maybe tens of millions of requests
                for disclosure any given month.

                And so the idea that we wouldn't very quickly be swamped by a backlog of
                unfulfilled requests at a large provider level I think is very concerning to me,
                particularly when this could create an entire new cost center that doesn't
                serve us and doesn't serve our customers. I think it is something that's
                concerning.

                So I would say first of all thank you again for this I think very well thought-out
                framework. But I think when we get into time frames, you know, we have to

think about what is commercially and technically reasonable for fulfilling these requests.

And some of them may be automated. I'm hoping that some of them can be automated. But, you know, there are a number of these that will probably need at least some degree of human review. And then that starts to look at for example some of the content issues that we're seeing from some of the other larger platforms.

It starts to scale up beyond the ability of the human population to fulfill those requests. So I just wanted to get that out there and have that be a consideration when we start building this framework out with required timelines for response. Thanks.

Kurt Pritz: So to combine (Milton)'s and (Ashley)'s comment a little bit, we undertook this deeper dive into reasonable access. We had language about the parameters that should be used in providing reasonable access in our initial report. And we chose to do this deeper dive to see if we could put meat around this, understanding that it's an interim step between now and when we have the (unintelligible) of the access model, which we're supposed to start developing immediately after this.

And so to (Ashley) that's why we want to be somewhat lightweight in this approach. And to James's comment, you know, I think we should guard against causing the buildup of significant cost centers, especially if those cost centers are going to go away when the access model is devised.

So one of the reasons we had put a lot of this discussion off until the access model I think was because of that. So - and considering the work (Alex) and others have done I think we should, you know, use our pencils to mark it up in a way consummate with that. Margie please go ahead.

Margie Milam: Sure, thank you. And I really appreciate all the hard work on this. It showed a lot of people coming together to address the issues that are important.

A couple comments. The 30 days is way too long when you think about we've moved from a system, you know, where there were, you know, billions of requests instantaneously to now going to 30 days, especially when you think about it from the perspective of cybersecurity, anti-fraud, anti-phishing.

And so I think we really need to think about the timelines and whether we could perhaps have something shorter for the urgent ones because that in my view seems to be a problem. I don't think anyone would think that 30 days is appropriate in an active phishing event. And so I just want to, you know, get us to think about that.

The other issue I agree with (Ashley) about trying to be more concrete where we can. But I also recognize that the - you know, we don't want to penalize a registrar for missing a time period, you know, occasionally, whatever the time period is that we do agree to.

But we also have to be mindful that not all registrars actually will comply. And while the folks on this call, you know, will be doing the best they can to comply, we have to give compliance some tools for when, you know, a registrar simply doesn't comply. And so that's the reason for the - you know, having some sort of concrete time period.

And maybe it's not, you know, a hard set period, but like an (SLA) concept, you know, a percentage has to be met within a certain time, something, you know, something that accommodates, that gives the compliance department the tools they need to actually enforce for those, you know, parties that just simply, you know, don't comply at all. That's the reason for having something more concrete. Thank you.

Kurt Pritz: Margie do you have any thoughts about how to differentiate urgent requests from non-urgent requests?

Margie Milam: I think yes. I think if it actually specifies an event and gives some proof, I mean, it's easy to show. Usually if you're working with an anti-fraud vendor you'll have screenshots of a phishing event for example, you know. So, you know, probably I think we could ask for - reasonably ask for extra proof in that scenario and have a shorter time frame.

                  And I'm sure perhaps (Benedict) and others even, you know, James, they probably deal with those things quite frequently. And so, you know, maybe a couple of us get together and just try to define when that urgent situation arises.

Kurt Pritz: Thanks Margie. (Alex) please go ahead.

Alex Deacon: Thanks Kurt. It's (Alex). Yeah I just wanted to comment on (Sarah)'s edits to the section where we listed requirements for what information responses should include. I appreciate, you know, hers and the registrar's reasonings and any other statements that have been made on this topic this morning.

                  You know, I suggested quite a bit of detail there and registrars suggested that all of that detail be deleted. I'm wondering if there's a more reasonable – if I could use that word – kind of compromise where we could put some framework around the responses that still kind of satisfy, you know, our needs but don't freak out, if you will, the registrars.

                  And so maybe, you know, (Sarah) or others are willing to work on that. I'd be happy to do that. But I do think we need some detail there. And I'm not quite comfortable with deleting it outright. Thanks.

Kurt Pritz: So I think one of the places this recommendation took us (Alex) is deep into some implementation details where, you know, in case we're arguing, you

know, 30 days or X number of days, which to me aren't really policy. So I wonder if there's a correct path here to zoom up - you know, zoom up the language into higher level policy language.

And then that sets certain goals for the interim period while - for providing reasonable access while we wait for the standardized access model. And then that - because it's clear that we kind of have to go back to the drawing board and have the group noodle on these things some more.

So it might be to take - you know, look at what you've written and how it's been edited. Look at the policy goals for those things. Rewrite this recommendation in terms of those policy goals.

And then – you know, then we can spin off or as part of the implementation team for that, spin that conversation off so we can have that discussion in the right level of detail because as soon as we start talking about days to respond, billions of requests, which ones are more important than others, and trying to set some sort of bar for that, it becomes really…

You know, we'll march through the rest of the queue, but I would suggest we go about it that way. (Unintelligible)

Man: Thanks very much Kurt. First of all you mentioned that our work on this Recommendation 12 is interim solution until such time when the access model has been worked on. I'm not sure whether that's accurate because I think there will always be a need for criteria for individual requests, one-off requests by certain requesters, that do not want to go through the process of getting accredited under whatever model we might define.

So, you know, I may stand corrected but I think that for individual claims, this might be a permanent solution that we're working on.

Also I think that huge progress has been made on the criteria. I think that these criteria on the side of the requestor may work perfectly for civil claims. And these disclosure requests would be responded to by the contracted parties according to Article 6.1(f) of the GDPR where the contracted party is entitled to pass on data.

And I think that we probably need to reflect that a little bit more, that there is no claim in the data but that the contracted party is entitled to disclose the data. And I think that there needs to be a little bit of discretion for the contracted party baked into this policy because the requester might be a little bit fishy in terms of, you know, origin or agenda. And in cases where it's doubtful what the data might actually be used for, I think it would be unfair to come up with a consensus policy that requires the contracted party to disclose and take the risk of an unlawful disclosure. The second point that I wanted to make is regarding law enforcement disclosure requests. And I think that the paper that's been worked on does not really work for those. Because the criteria based on which contracted parties are required by law to disclose data might be totally different from the set of criteria established here.

So for European law enforcement, they need to have a legal basis and then the disclosure would take place based on Article 6-1C of the (unintelligible). And if you look at the second sentence of the first paragraph of Article 6, it explicitly states that public authorities cannot 6-1 as for the data processing, which means that if a law enforcement authority does not have a legal basis to request data, and then the disclosure would be an obligation for the contracted party, you can't just say, okay, but I still have an interest in that data and then request it based on 6-1F.

And so this is a legal issue that we've discussed a couple of times over the last couple of months. And I think it hasn't yet been responded to. How can data be made available to law enforcement authorities outside the EU, in particular, if at all. And then I think we need to write up those criteria for

handling those disclosure requests, but absent a legal opinion helping us with this, I'm concerned that, you know, if we don't clarify that these criteria will not work for law enforcement requests that we will create false expectations and trouble for the entire ecosystem. Thank you.

Kurt Pritz: Thanks very much for that, Thomas. Again, I'm thinking about how to fold those comments, which I think we're pretty much spot on, into a policy statement here and what's left for implementation that I don't think we could figure out on these sets of calls. Kristina?

Kristina Rosette: Thanks. I think a lot of work has clearly been done. I think we are definitely moving in the right direction, although I think it's been pretty clear through previous interventions that a number of members believe that there are some additional changes that may need to be made. I would just note that from the registry stakeholder group perspective, if we are going to be moving more in this kind of more implementation like recommendation, then the policy statement direction that you just articulated, I think we just need - everyone needs to keep in mind that because there will be - this is materially different from what was published in the initial report. That at least for the registries, and I certainly don't want to speak for everyone else, we're going to definitely need some - to block some time to make sure that we can go back to the rest of the stakeholder group and present it, and answer questions, and the like.

So if that changes the direction that we go in terms of further refinement of the recommendation as it is versus maybe kind of taking it back up to maybe the 15,000 foot level that may be a factor. But I did just want to flag that. Thanks.

Kurt Pritz: Thank you, Kristina. Hi, Steve. Welcome.

Steve DelBianco: Thanks, Kurt. I'll try to honor your request to stay high level and not get into the implementation weeds, and I'll only speak not to what is in the policy but what we need to acknowledge is the reality that we're going to need a

disclosure policy permanently. And I'm reacting to what Kavouss had inserted and toggling back and forth to Sarah's redline of the earlier text. And at this point, I would be most interested to see if Sarah would acknowledge that we permanently need a disclosure method under what we call reasonable access in the temp spec.

But we'll permanently need that since not every entity will be able to be an accredited entity under any reasonable - any unified access model that we come up with in the future. In other words, we're permanently going to need the disclosure request as well as a policy governing the request. And if that's the case, we can resolve one of the differences in your redline, what is on the Adobe screen, and I think at that point address that Kavouss' edits probably don't apply since it would no longer be an interim policy, a request for lawful disclosure.

So Sarah, interested to hear your reply with that. You can put it in the chat or get into the queue. Thank you.

Kurt Pritz: Thanks very much, Steve. Well, I'll refrain from commenting. I think that was a good intervention. Both go ahead, Alan, Alan Greenburg.

Alan Greenberg: Thank you very much, and I apologize. I've got some construction work done. There may be background noise. A couple of things. James' intervention, which was now a long time ago, on we have to be realistic that the workload is heavy and it may be really difficult to do it. I'm sympathetic with that but at the same time, we're trying to set up rules that balance various needs, both the needs of the registrars and registries to control costs, and the needs of various other groups to access information.

So somehow, we have to come up with a reasonable balance. The 30 days or one month, normally, for these kind of things there's a distribution curve of some things get done quicker, some things get done slower. If 30 days is the tail end of the curve for the lowest priority request, that's probably fine. If, on

the other hand, like some organizations, if you say it's 30 days then you'll get nothing before day 29, that's totally unacceptable. So somehow, the wording has to not only set a limit but explain - not explain the methodology but set expectations so that the limit is not the norm.

Lastly, I'll comment that I'm one of the ones who initiated this discussion, saying - asking is there something we could do on an interim basis before the universal access model is available, if it ever is, to try to straighten out things and try to make them more predictable. And I'm not sure we need to do that for the Phase 1 report. I'm not sure the mechanism that we could publish it and get it enacted before the end of Phase 2, but there may be some way, if we're talking about best practices or things like that, we could put them in place even though we don't settle them within the tight timeframe we have now for publishing the report.

I'm not sure that's possible but that was the original intent when the discussion was first raised, and I'll raise it again as a possibility. Thank you.

Kurt Pritz: Thanks, Alan. Best practices is attractive. So I want to agree with Steve and Thomas that this isn't - I agree, this is not an interim policy that it will extend on after the access model is complete. But we're at this inflection point in volume of activity where up until May 25 there was easy access to data. So registrars and maybe registries got a few requests.

And then with that data being cut off, the amount of data requests, you know, multiplied many times. So James is talking in numbers, like, in the billions. And then with the access model, hopefully if done well that activity or that (unintelligible) will taper off. So there will be a need for this policy, but it will be used much less.

And so what we're trying to deal with here is the unknown quantity and coming up with criteria for how they will be dealt with. And I think that's what we're struggling with here. And that's why we thought that we could put a

much finer point on this, with the access model, because we would have a much better idea of activity levels and how we expect them to be curtailed by the existence of some standardized access model.

So while this is not an interim policy, I think we have an interim situation and it's difficult for us to put a fine point on these criteria. And again, that's why I think, you know, this is the - the implementation details of this are better left to a discussion after we're done here.

So I'm going to (unintelligible) I think Thomas' hand is an old hand, but I'll wait to see there and call on Ashley and Brian, and then bring this to a close.

Ashley Heineman: Thanks, Kurt. Ashley with the GAC. So I just wanted to, I guess, respond largely to Alan Greenburg and to a previous, I guess it was Thomas' comment, in that I think this definitely should be something that goes beyond best practices. I think what we have now in terms of reasonable access completely undefined really doesn't serve anybody's purpose.

So even if we go back to broader language as opposed to very specific, I think we really miss an opportunity here to bring some clarity into what reasonable access means, even if that means to be developed at a later date in terms of we recommend that there be timelines but the specifics around those timelines will be agreed upon at a later date, but the contracted parties agree to among themselves or individually have published response times along those lines for other of these criteria as well.

Also, I just want to make sure that we don't muddy this kind of effort here, which is, like, getting into the details about upon which basis things are going to be used as the rationale for granting access and those things. So I don't think that's the intent here and we'll very quickly kind of go down a rat hole if we go there. So I think if we just keep ourselves focused on what the rules of the road here, providing some clarity around that, so at least we get

something out of this exercise that makes it more clear as to what reasonable access means.

And I'll stop there. Thanks.

Kurt Pritz: Thanks, Ashley. Brian, you're going to wind this up.

Brian King: So thanks, Kurt. I want to thank everybody for the productive conversation here. I think this is really helpful. I would clarify that I think it's going to be important that we not assume that this should go away when we get to some accredited or (unintelligible) unified access. It's foreseeable that there's still a need to make one-off requests and especially maybe for urgent things or for something that's outside the scope of what an organization has been accredited to request data about.

And I think that we shouldn't just assume this will go away also because I think that could be an incentive for folks that maybe be accredited to use their accreditation for different purposes. And so we wouldn't want to encourage that incentive. There's a number of reasons I guess I should say that we think that we should put this in place and agree that it continues even when we get to the unified access.

And then the point I would make, and I'm happy if this goes to the list or for offline conversation, but I think if I - I work at a registrar. If I put on my registrar hat, I would much rather - I would appreciate the kind of reasonableness that the kind of language that Sarah proposed and (unintelligible) proposed in the chat. And I think that the IPC is able to accommodate that concept.

And I'd like to explore how we do that in a way that gives compliance certainty. Because it would be helpful for Mark Monitor in our registrar business, for example, to know that we're not going to get a compliance complaint or for ICANN compliance to know that they're not going to get a

compliance complaint when the data is not provided within two days or 12 hours if the complainant and the requestor thinks that that's a reasonable delay.

So I think if we can get some clarity and certainty around when compliance has teeth to go after the registrars that are not here and will not likely cooperate until they get that compliance notice or inquiry then that would be a better situation for everyone. And so I think that's what we should work toward. I'm happy to help with that conversation offline. Thanks.

Kurt Pritz: Thanks, Brian. Thanks very much, Brian. So I'm just looking at the chat here. I think I'd like to do this. Certainly, we've compiled all the comments that have been written here. We have a transcript. You know, I'd like to meet support staff and Rafik and me to try to make some amendments to what's been written here and post that to the list later today and maybe take up this conversation a little bit in email. But I understand this sort of conversation is good. I'm just seeing plus one so that scroll up.

So my offer is that we'll come out with - rather than throw this back to the small group, make some edits based on the comments by today, and then take it from there. And of course, it can be amended further.

So if that's okay, then I propose this. The meeting is supposed to go on. So we're going to go on. We're supposed to take a break but we've eaten up some of that time. Let's take - our next topic is Recommendation 1 Additional Purposes, which might be renamed, and then data retention. And I think those might be fairly short but we'll see. I've been very wrong in the past.

So the agenda calls for a ten-minute break but why don't we kind of combine that? Take a ten-minute break but read through the attached comments from the registrars, ALAC, and the NCSG on additional and then build in a little extra break about that. So let's reconvene in about ten minutes, which I think would be 20 minutes after the hour if that's all right with everybody.

I'm going to put my mic on mute, get a cup of coffee, and I'll see you guys in a few minutes. Thanks very much for hanging in there.

Hi, everyone. We're starting back up. Thanks for your continued attention on this. Okay, this topic has to do with additional purposes. I'm hoping you can hear me. And this is sort of a discussion in separate chapters. So maybe we should take the separate chapters here. In the first one, remember, this is a review of public comment and I think Milton did a nice job of public comment. There were comments made for - suggesting additional purposes.

And I think Milton did a nice job in his email of addressing those. So I just wanted to put that email into the meeting minutes and the email (unintelligible) just give you a second to reflect on that. But I would advocate for reaching Milton's conclusion that other than the additional purposes how we've discussed in the past and that are on the table, I think that's all the reach a level for further discussion.

So I would support Milton's memo and move on from there unless there are any objections. So thanks for doing that work. That saved us a lot of time. Then we also - we have the topics of ALAC and I think the ARS work. And where I think there's been closeness to accommodation reached on the email list, but maybe we'll let Alan talk to that. We have comments from the registrars that Sarah could talk to, and then finally some comments from ICANN that maybe (unintelligible) can talk to.

So if we want to go through those, Alan, do you want to start?

Alan Greenberg: Sure. The emails have been somewhat confusing.

Kurt Pritz: Alan, go ahead please.

Alan Greenberg: Thank you. The emails have been somewhat confusing because there have
                    been proposals but other people then go back to the previous ones. So I'm
                    not really sure where things stand right now. The ALAC originally proposed
                    that ARS be a new purpose. It was tentatively decided part way through
                    Toronto that we could treat it as an access issue and defer it to Phase 2,
                    which we accepted. Not optimal but we accepted that.

                    Milton, in a later email, shortly after Toronto asked -- and I'm not sure if that's
                    the one you just pointed to now or not -- asked why is ARS not a compliance
                    issue. And I tended to agree. ARS essentially is an audit of related
                    compliance. It's not an audit of registrars or registries. It's an audit of the
                    data and it can easily be accommodated as part of Purpose 6 with some
                    changes to the rationale. The rationale specifically talked about the
                    contractual compliance department in several places.

                    And by simply changing that to talk about ICANN in the more general sense
                    and not - because ICANN is the legal entity. Contractual compliance is an
                    arbitrary department that could be changed and ICANN can reorganize itself
                    at any point. So by referring to ICANN and treating this as essentially a
                    compliance audit, it falls completely within the domain of Purpose 6 and can
                    be eliminated, not put into Phase 6, but simply with those changes, if
                    everyone is agreeable to them, we can accommodate the ARS and take it off
                    - check it off our list.

                    So we can live with it being a purpose. We can live with it being the
                    integrated into Purpose 6 and we can live it with being deferred as a part of
                    an access discussion. But we just need to decide which way we're going and
                    not keep on going in all directions at once. Thank you.

Kurt Pritz: Go ahead, Milton. Thanks for that, Alan.

Milton Mueller: Yes, I think we and it sounds like Alan agrees, are very eager to stop pushing
                    things into Phase 2, and would like to resolve this. And we were perfectly

okay with Alan's proposed rewording of Purpose - now, my idea was Purpose 5, not Purpose 6, even though I've continually referred to it as Purpose 6. Somebody should check that but the purpose relating to compliance, which I thought was Purpose 5, you know, the way he reworded that was fine that it generalize it to ICANN Org rather than the compliance department. Indeed, understanding the GDPR, I'm not sure that different departments of the same organization need to have different purposes anyway.

And that was the only other comment I wanted to make was that the - in terms of Purpose O or the proposed research purpose that the burden legal counsel told us that an organization, if it was a controller, could do research with its own data. And obviously, there would still be constraints on publishing personally identifiable data as part of that research. But I think that if all we're concerned about is the ability of ICANN's Chief of the Chief Technology Officer or other cybersecurity elements within ICANN to do research with anonymized WHOIS data, or with general patterns, and we're concerned about compliance, I think we can get this done and we don't have to have a different purpose. And we don't need to kick it to Phase 2.

So what exactly does need to be done other than that?

Kurt Pritz: Thanks, Milton, for those two concrete suggestions. So I won't (unintelligible) sense agreement around adding ARS to Purpose 5 in some way and dealing with it in that way. And so - and then if everyone could comment on leaving research in for now but removing it if legal advice indicates it's not necessary, something like that. Anyway, commenting on those two would be excellent.

Marc Anderson: Thanks, Kurt. Marc Anderson. I guess from my perspective, I've always looked at ARS as a compliance function and so my two cents is that it makes sense to include that in the compliance purpose. And so I guess I'm supportive of that change.

On the other one, as far as the octo - the question as to whether this octo thing should be a purpose or not. I think that's the question in front of us right now is, you know, is - do we do treat their access to the data as just another access request, which we would consider under Purpose 2. Or does this require a separate and specific purpose specifically called out? And so is the work they're doing specifically different such that they require their own purpose to define why data is being processed and why they would be accessing and processing that data.

And I'm not sure I've heard anything coming from ICANN staff that indicates that they are asking for or need any specific purpose or access to data. I've not seen them justify that or even indicate that they're looking to justify any extra or additional purpose for them to process this data. I'm happy to be corrected if I missed something in the swarm of emails, but it seems like we're creating a purpose or trying to create a purpose where maybe one is not needed. Again, happy to be corrected there if I'm wrong.

But I guess this conversation started off as sort of a recommendation for us to take this up during Phase 2 and I just want to flag that a little bit and just remind everybody that our charter, Part 1A, the first part of our charter deals with defining purposes. And it's also - that's the first gating item for getting to Phase 2. So I want to caution a little bit against pushing any discussion on purposes off to a later phase. Coming to agreement on purposes is really foundational for Phase 1. That's not to say we may not need to -- double negative -- we may not need to revisit something in Phase 2. But this is really foundational work that we need to define in Phase 1 and not push off to Phase 2. Thank you.

Kurt Pritz: Thanks very much, Marc. I remember ICANN's input into that and from the office, the technical office stating that, you know, at this point they don't require data that's being redacted for their studies. So that causes me to think that the approach number two is the appropriate one. Because their mission is certainly security and stability related. And since they've signaled

that they don't need data on a constant basis, then data they would need for any of the reasons that are flashing by in the chat here would be security and stability related, since that's their mission. And they could just request that data under Purpose 2, and I think it would fit well.

And subject to the condition that we put on it about getting legal counsel for this, but under that sense, I think that would have a legal basis. Alan Greenburg?

Alan Greenberg: Thank you very much. Regarding Milton's comment that this should just be allowed because we are a controller, that would be true if we had the data but we don't have the data. I think the concept of integrating this into Purpose 2 is fine. It certainly fits under security, stability. However, to do that, we need a new processing activity allowing the transmission of data from registries and registrars to ICANN. That's not there right now.

So if we include a new processing activity , which includes that transfer, and of course, perhaps add that to the contract requiring them to address those requests for data, then I think we've done it. But it can't go – we can't just say it's Purpose 2 without a processing activity that allows it to actually happen because we're in the unusual situation of being a controller without the data. So, you know, I think we could fix it.

I would caution that the fact that OCTO has said they're not using the data now, and I believe that is what they said under GDPR, under the temporary spec, doesn't prove anything and moreover even if they have never used the data before, we're building a system that has to be resilient coming – going forward; we don't know what the needs are going to be going forward. So again, to reiterate what Milton said, it should be part of our normal business and should be allowed but that presumes we have access to the data. If we integrate that into Purpose 2 I think we've done it, it's easy. Thank you.

Margie Milam: Kurt, it's Margie. If I could be in the queue? Sorry, I'm not online…

((Crosstalk))

Kurt Pritz: Benedict, please go ahead. All right, right after Benedict.

Benedict Addis: Thanks, guys. I'm not sure – I'm easy either way really. And I think the stickiness in Purpose 2 makes sense with the caveat that Alan mentioned that we need to just make sure that's explicitly listed. Purpose 2 talks about third party access whereas ICANN is clearly a first party so I wonder if we would need to slightly clarify that language to make sure that this is the intention.

My thinking was is that better in 5 or 6, I can't remember which, the compliance purpose. And the reason for that is that it's a reading of the research language in GDPR which says that you're allowed to use data you've already got for further processing, so that means taking the data you've got, doing something else with it that you haven't explicitly asked permission with as long as you notify the registrant, the data subject.

But what we're talking about, as Alan's pointed out, we're talking about data that the controller doesn't have and so that seems to indicate that we need an explicit purpose for it and that's – I put that question to Ruth and she said basically we need to get – sort of the authorization of the group to ask that question formally, so I'm asking you guys if we're okay to ask Ruth if that makes sense to be in a separate purpose or in which case it would – to me it would make sense to put in with all of the other ICANN Org functions like compliance.

But it sounds like we're close to a solution on this one as long as, you know, we all agree that ICANN will be able to obtain this data when it needs. I think that's – and we haven't accidentally shot ourselves in the foot. Thank you.

Kurt Pritz: So you broke up to me a little bit, Benedict. To whom did you want to ask those questions? Was it our legal counsel or somewhere else?

Benedict Addis: To legal counsel.

Kurt Pritz: Okay. Thanks for that. You know, I see the queue is empty. I understand Benedict…

((Crosstalk))

Margie Milam: Kurt, this is Margie…

Kurt Pritz: …I understand your concerns and…

Margie Milam: It's Margie. I want to get in the queue. I'm online.

((Crosstalk))

Kurt Pritz: …make here and put this – oh, Margie, go ahead. The queue is not empty.

((Crosstalk))

Margie Milam: Thank you.

Kurt Pritz: Yes, thank you. Go ahead please. Thanks very much.

((Crosstalk))

Margie Milam: Sorry, I had to do my commute. I agree wholeheartedly with what Alan and Benedict said. If you look at the comments that I sent to the list on Friday, one of the things that the BC is highlighting is the concept of threat response as it relates to ICANN Org. And so I think it'd be very important to clarify

Purpose 2 if that's where we going to put it to address the ability of ICANN Org to access the data for threat response and research. Thank you.

Kurt Pritz: Thank you, Margie. So that's right. And combining that with Benedict's – I'm now seeing that the queue is not empty. Go ahead, Hadia.

Hadia Elminiawi: Okay so I also agree with Benedict and Margie. So we either need to have it as a purpose because…

((Crosstalk))

Kurt Pritz: Hadia's how's the old microphone working today? There you go.

Hadia Elminiawi: Yes. Is it good? Okay, so I would also agree to have it as a purpose as well as…

Kurt Pritz: Yes thanks. Sorry.

Hadia Elminiawi: …it is better to be roughly right than precisely wrong or alternatively we could ask Ruth. Thank you.

Kurt Pritz: Thanks for this and thanks, everybody. So I think what's important is for us to be clear that data can be made available, you know, for this purpose whether or not it's a separate purpose or not, you know, under some sort of 6.1(f) legal basis. So the exact use of the data isn't known yet so we have to be able to, as Alan said, be able to accommodate these requests when they come in as the requests come in for these reasons.

You know, I'm personally not so concerned about making a mistake that, you know, if we put it under Purpose 2 and then, you know, at some later date there's an opinion that it really belongs under Purpose 6, I don't think that would obviate the ability of ICANN to collect this data. So – and I think the mission – so this is my personal opinion now – but, you know, I think the

mission of the OCTO is along security and stability lines and I sure like the cleanliness of dividing that from compliance and not making compliance sort of a catchall ICANN uses of data.

So, you know, our purposes are security and stability and that's one purpose an OCTO goes under that. And we have another purpose for contractual compliance and those things go under there. So I think it makes our product a lot cleaner. So I think we want to resolve the questions that Benedict and others raise that, you know, for example, can we treat ICANN like a third party in the instance of the security and stability request because it's this part of ICANN that's requesting the data so make sure it's clean there.

But, you know, proceed along the lines that we started this conversation with that we put the ARS, we make a note of that under Recommendation 5, which is contractual compliance, and the mission of OCTO, security and stability related, we put that under Purpose 2, which is our security and stability purpose; and we test the reality of both of those things. And I'd ask here but particularly staff to make those indications in an appropriate way for everybody to look at in the next day.

I also think that Alan Greenberg's comment that would require some additional work in the data workbook is required so I'd look for a thumbs up from Berry or Alan or Marc that work would be – that would necessitate this kind of work. Am I correct in thinking that, Alan, is correct, that we'd need to do some work on the data elements workbook and create this data flow? Thanks, Benedict. Okay, can I get some form of assent that this is the right way to proceed?

Okay then finally on this we have some (unintelligible) and Trang, I don't know, I assume you're there at the bottom of the attendance list. Could you outline the issues ICANN raised with this?

Trang Nguyen: Hi, Kurt. This is Trang. Are we talking about…

((Crosstalk))

Kurt Pritz: So wait. So Milton, can you speak up where you say "no"? Okay. Trang, can you just hang on one minute? Milton, go ahead.

Milton Mueller: Yes, this is about ICANN's own research, right? ICANN is not a third party. It's obvious to me that that just doesn't work. And by putting it into a purpose which is geared towards third party access, I don't know what kind of doors we're opening for indiscriminate access to the Whois data for some kind of a claimed research purpose. And as a scientist who frequently sniffs out various sources of data, you know, we, you know, for research you can want any data and all data for any purpose. So that's just too open-ended.

                     If ICANN wants to do research, either for compliance purposes or for its own internal SSR purposes, that's fine but that's not a Purpose 2 thing; that's a Purpose 5 thing. And I just have real serious qualms about trying to shoehorn this whole idea into Purpose 2 when we're not dealing with a third party, we're dealing with ICANN.

Kurt Pritz: So, Milton, stay on the line. I want to divide this into two. So my understanding would be that if ICANN, you know, OCTO wanted data for a certain purpose it would have to demonstrate that path, you know, the 6.1(f) path so it wouldn't make all data available all the time but rather would make available data on a one-off basis for a very specific study and demonstrated that the benefit of those studies, you know, outweighed the privacy rights of others. So I'm not concerned with that part of it so much. I want you to come back to me on that. And then, so where did you propose then putting this in your recommendation, at the top if not in Purpose 2?

Milton Mueller: As I said, I think we need to clarify with the legal counsel whether ICANN can, as controller, and ICANN needs to decide whether it's a controller here of course, but assuming it is, then the fact that it doesn't have the data doesn't

necessarily mean that it can request it if is the controller, so we need legal advice on that and whether that's actually – needs a distinctive purpose.

But, you know, that's not a third party access issue under any construction, that's ICANN getting data about its own system and doing research on it, which we support but we don't want it in Purpose 2.

Kurt Pritz: Thanks, Milton. Alan, go ahead – Alan Greenberg.

Alan Greenberg: Yes, thank you. I misspoke before when I said it could go into Purpose 2; I'd forgotten that Purpose 2 is third parties right now so it cannot be Purpose 2. ICANN under no conditions is a third party. We can fix it, however, either by adding a new purpose or simply modifying Purpose 2 to say to third parties for legitimate lawful purposes, or to ICANN, and then add a processing activity for it. So we could make Purpose 2 apply to ICANN as well if people – if that's offensive to people then it probably has to be a new purpose not because we need a purpose for ICANN doing the processing of the data but to ensure that it can be sent to ICANN.

So it's not the processing that's the purpose, it's the transmission to ICANN that we have to ensure is enshrined in some purpose. So we can fix 2 by adding ICANN as an Other recipient in addition to third parties. I can't see anywhere else it fits. I wouldn't want to put it into 5 because 5 is very much a compliance one and this is not a compliance issue. Thank you.

Kurt Pritz: Thanks, Alan. Marc.

Marc Anderson: Thanks, Kurt. Marc Anderson. You know, reflecting what Alan's saying in chat, you know, OCTO has not told us what they're doing, slash, indicate the need as necessary. You know, I think I maybe want to put Trang on the spot a little bit or ask ICANN staff to weigh in here because, you know, I think we really – if we are going to create a new purpose we really need that to come from ICANN.

You know, registries and registrars, you know, we are processing, collecting data, you know, for the purposes of activating and allocating a domain name. And so if ICANN needs us to collect, process, you know, transfer to them data for something else, if they need us to do that for, you know, for, you know, writing a research paper or doing a, you know, or some, you know, some kind of security or stability activity, we really need that to come from them. And, you know, as Thomas is saying once again, you know, OCTO has confirmed they don't need that, you know, that personal data.

And so, you know, I'm not hearing, you know, OCTO or ICANN say that they need a purpose here for processing personal dat. You know, I'm happy to be corrected on that but, you know, it doesn't, you know, it doesn't seem like we, you know, based on what we're hearing we need to do something, you know, we need to create a specific purpose. But if we do need one I think we really need that to come from them and we need them to define, you know, what the data is that they're, you know, what the processing activity is, what data are they expecting to be collected and transferred to them and for what purpose?

Kurt Pritz: So that's an excellent point. You know, say we're silent on this and at some later date OCTO needs personal data for something that's, you know, something we all think is (unintelligible). So under the current regime, they can't go to Compliance in ICANN and ask for that data because that's a data transfer that's not contemplated in any of our work and doesn't have a legal basis. So is there – for things that aren't mentioned by our team, you know, is there ways for – is there ways for, you know, bona fide entities with data requests with legal basis to get that data, you know, outside of the purposes we define here? Or should we try to anticipate that? Because I agree with you and others in the chat that says that in the next – especially the Technology Office has been reticent to express any need for data at all. Farzaneh.

Farzaneh Badii: Thank you, Kurt. Farzaneh speaking. So I think that we are really getting confused because we keep repeating and digging up issues that – and questions that we have responded to multiple times. Basically this is not even a disclosure or an access issue because Benedict also says even if in the future OCTO needs personal information, they hashed pseudonymized personal information which is not subject to GDPR.

What Benedict is, I believe, what Benedict means, as he said in chat, is that the registries and registrars be allowed to hash the data and then transfer it to ICANN. This is what we need to – if the group needs to (unintelligible) appropriate they need to address it. That is the issue. There is no data – additional data element that should be transferred in the future. There is no personal information that ICANN – OCTO needs to have access, OCTO has on multiple occasions said that they do not need to have access to personal information.

And for the future purposes, they only need access to hashed data, which in my limited knowledge of GDPR, it is not subject to GDPR. The only thing that we need to discuss here, I believe, is that how – if we should have a purpose for registries and registrars to hash the data, which is – Benedict is saying that is like a processing thing and they should have a purpose for it. Thank you.

Kurt Pritz: Thanks, Farzaneh. Benedict, can you close out the comment on this, please?

Benedict Addis: Yes, I think Farzi summarized it pretty well. It seems that if we think this is something that ICANN should do in the future, and a function that should (unintelligible) ICANN and to me it seems pretty obvious that an organization that is acting as controller should be able to check the quality of the data that it's responsible for, like a – perform research functions and so on and forth, seems to me entirely obvious.

And as Farzi has discussed, that would be performed with hashed data so privacy would be maintained. Then we need to work out how that's done and it might be worth taking legal advice and Ruth has already said she is prepared to opine on that as to whether that would be done in a separate purpose which Milton seems to be tending towards, or rolled into an existing purpose and subsequently whether that purpose should be a third party access one or an ICANN Org kind of purpose. And if there's any serious disagreement with that, please let me know, but that seems to be the question we should at least be asking to legal – for legal advice on. Thanks.

Kurt Pritz: Yes and perhaps augmenting that question with, you know, this is something evidently we don't – we anticipate there might be some requests in the future and to what extent do we need to accommodate for that or will, you know, ICANN and other controller's ability to process data in different ways be affected if it's not spoken to in this policy. Amr.

Amr Elsadr: Thanks, Kurt. This is Amr. I agree with a comment that Alan Woods put in the chat a little while ago about this being far beyond the scope of the EPDP in general. Not only do I believe it's outside the scope of this EPDP, but I believe it should be outside the scope of any EPDP. EPDPs are meant to have extremely narrow mandates that cover issues that have been appropriately scoped in the past; this one hasn't. I think this topic needs to be addressed in something that deals with RDS in a broader sense like the RDS PDP that was suspended for this to go through an issue scoping phase at which time ICANN Org would have the opportunity to really spell out what their needs are in this case.

If you all recall, we specifically asked ICANN what they need or what their common practices had been in the past. The only response we got is what they do now in terms of OCTO in the new GDPR/temp spec setting. But we didn't get a straight answer from them on what they did prior to this or what they might have needed or may need in the future despite us giving them the opportunity to provide this input.

So if we're going to deal with this issue one way or another on this EPDP, I believe we should draft a recommendation that the GNSO Council take this issue up and any other, you know, proper PDP with an issue scoping phase because that's where – it's more likely to be dealt with more appropriately. Thank you.

Kurt Pritz: Thanks. Last-last comment, Alan.

Alan Greenberg: Thank you. I did have my hand up before; someone seems to have put it down. Regarding Amr's comment, the concept of putting this off to an "other" PDP which…

Kurt Pritz: Yes, go ahead.

Alan Greenberg: …will probably take multiple years is ludicrous. This is an SSR issue. Thank you.

Kurt Pritz: Thanks. So, you know, with regard to Amr's comment, you know, one thing that's in scope for us is to determine any other purposes for processing data. So in that sense it's within scope but we find ourselves speculating as to whether this is going to be a needed purpose or not and that sort of speculation is probably not within our scope. So, you know, the best path for us given the state of discussion and our uncertainty, you know, because we haven't had a good sense from ICANN whether they're as interested in this as some of us are is to proceed with the set of legal questions to Ruth. So we'll work on that and try to have those legal questions done tomorrow and ready to ship off.

Yes, Chris and Leon. Just reading Kristina's – okay. And there's one more topic that I'd like to talk about in this Recommendation 1 and it goes down to – while we have a few minutes and that goes down to a slight rewording

proposed by the BC. So I don't know if Margie can get on the phone and talk to this?

Margie Milam: Sure. Can you guys hear me? I think we were talking about – I'm on the business so it's hard to read what I wrote. Remember the discussion related to, was it Purpose 1, and originally we were talking about benefits and responsibilities. The only additional suggestion that I have…

Kurt Pritz: Yes, I can read it for you if you want.

((Crosstalk))

Margie Milam: ...to address that would be using the word "maintenance" – "use, maintenance or disposition." And I think that captures what we were thinking about with regards to benefits and responsibilities.

Kurt Pritz: Right, so – right so the BC recommendation on purpose – this purpose is I think in 1b would be, "To ensure that a registered name holder may exercise its use, maintenance and disposition of a registered name." So instead of "may exercise its rights in the use and disposition of a registered name," "may exercise its rights to the use, maintenance and disposition of its name." Marc Anderson.

Marc Anderson: Hey Kurt. Marc Anderson. I'm sorry, I got a little bit lost. We moved onto a new topic but I'm not quite sure what the new topic is and it sounds like Margie's trying to tee up something new but I'm, you know, I feel like I'm not following along and that's not fair to Margie. So if I could get a little clarification on what we're tackling right now that would be helpful.

Margie Milam: Sure. This is Margie. This is Purpose 1. And we were finishing…

((Crosstalk))

Kurt Pritz: Yes, so that's my fault. I – recognizing the time was short. Go ahead, Margie.

Margie Milam: Sorry. I was just trying to address the issue related to, if you remember in Toronto, Purpose 1- go back to Purpose 1, on the comments there was a big discussion we had about rights and responsibilities, benefits and, you know, all that sort of thing. And the reason why we felt that it still needed to address the issue is that the current language talks about the registrant's use or disposition of the domain name, and it seemed like that – there was something missing. And I think the thought that we were trying to get it as we should insert the word "maintenance" would be "use, maintenance and disposition of the domain name" (unintelligible) related to trying to put in the process of obligation.

Kurt Pritz: So I understand there's quite a bit of delay on my side of the line right now and I apologize for that. So we're over time so I think we have a couple items, this one, which I think we could close out fairly easily, you know, and a set of questions we got on this from ICANN that Trang had teed up. So I think we're going to have to put this off for some other discussion, either email or in the next meeting.

Given where we are now I'll collaborate with the staff, try to, you know, try to take a step back from where we are right now and look at the whole picture and better solidify a go-forward plan for closing this off. I definitely heard the comments regarding providing each group some time to step back and read the report and hope we can come up with some sort of approach to that to provide everyone sufficient time to do that.

You know, I know – I hope and I know that you're already in constant touch with your other – the rest of your stakeholder group. So we'll try to stop shoveling for a few minutes and zoom up again and come up for a plan for getting to the end date. And then I'd encourage you to take a look at Trang's questions that she's posed in the chat as preparation for the next meeting, but for discussion but we'll sharpen that in the agendas we provide to you.

So with that I'm going to let everybody go. Thank everyone for their continued dedication and time to this and I'll be talking to you soon. Thanks very much, everyone.

Terri Agnew: Thank you, everyone. 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