

**ICANN Transcription
GNSO Next-Gen RDS PDP Working Group
Tuesday, 01 March 2016 at 16:00 UTC**

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Mp3: <http://audio.icann.org/gnso/gnso-nextgen-rds-01mar16-en.mp3>

The audio is available on page: <http://gnso.icann.org/en/group-activities/calendar#mar>

Coordinator: Recordings have now started.

Terri Agnew: Thank you. Good morning, good afternoon and good evening. Welcome to the GNSO Next Generation Registration Directory Services RDS Policy Development Process Working Group call on the 1st of March 2016.

In the interest of time today, there will be no roll call, as we have quite a few participants. Attendance will be taken by the Adobe Connect room. So if you are only on the audio bridge, could you please let yourselves be known now?

Stuart Clark: Hello. This is Stuart Clark only on the phone.

Terri Agnew: Thank you, Stuart

Jeremy Malcolm: And Jeremy Malcolm from ESS is here on the phone.

Terri Agnew: Thank you, Jeremy.

I would like to remind all participants to please state your name before speaking for transcription purposes and to please keep your phones and microphones on mute when not speaking as to avoid any background noise.

With this, I'll turn it back over to Susan Kawaguchi for - to begin the conference.

Susan Kawaguchi: Thank you. And thank you all for dialing in this morning and another - and hopefully another fruitful discussion. Chuck could not be on the call this morning so he's asked me to step in just for today. And I was not on the call last week so hopefully I've come up to speed since then on any decisions and discussions. I did listen to most of the transcript - or the recording from last week.

And at this point is there anyone that wants to update their - or mention any updates to their SOI? And I just remind you that that's important to do if you have a change. Okay. So it doesn't look like - I don't see any hands up.

So there was a draft poll that was sent around yesterday. And, Stephanie, I'm going to ask you to present that, if you're on the call. I'm sorry, I should have checked this. Yes. Is that possible for you to present? Oh and I apologize. This was only sent to a small group. So everyone has not seen it, but now Marika has put it up on the Adobe Connect. Stephanie, can you review the work that your small team has done?

Stephanie Perrin: Sure, happy to do that. Stephanie Perrin for the record. And thanks to (Lisa) for working on this last minute. As we know, those who were the call last week we'll know we were circulating a draft list and discussing which particular type of expertise might be needed on this group, asking people to identify all the various aspects.

So we selected some feedback from the community. (Lisa) pulled it into this draft poll. We're going to be sending it out using SurveyMonkey, I believe. And basically this is kind of draft version three, which we hope incorporates everything that people have submitted. So I see I can scroll. I'll just go down.

We're asking people to basically identify what kind of expertise they have. So under legal, there's IT law, criminal law, civil law, protection law, and human rights law. Under technical - and there's quite a bit of discussion on all of these subcategories. Obviously we could split hairs and go and on. But the important thing is have we got the basic areas covered.

So under technical we finally arrived at protocol development, security and software development. There's obviously other things, like network management that we put under operational. But this is how we did it. Data protection, we put two basic areas. Having identified legal as having a data protection segment, there's data protection authorities and then there is other. And that includes all other kind of, you know, obviously if you are the person working on data protection in the company, you know something about it even if you're not a lawyer.

So operational, the rather rough categories of registrar, registry and then ISP or network management of some kind. Under other commercial expertise we have e-business, cyber-crime investigator, and other. And always for the other categories there's a text box to fill in the details.

Under noncommercial there's nonprofit or not-for-profit, and other. And that would of course include academia. I didn't both putting a separate category in there. For government advisory, in my view that was meant to represent the GAC representatives. So there's government official. I'm not quite sure what legislative means myself and other. Then under law enforcement there's police, investigator and court.

Under individual Internet user there's consumer, registrant and others. And then there is a separate category for non-governmental investigator, research, or other relevant expertise. (Unintelligible) we invite people to expand in the text box.

So we're hoping that we can wrap this up quickly and send it out to people and basically try to review what expertise we have around the table. Because, you know, frankly the SOIs tell you a little bit about who people are but not necessarily their expertise. Thanks. And happy to answer any questions.

Susan Kawaguchi: Thanks, Stephanie. Is there any questions from the working group? Ah, (Mark Anderson).

Marc Anderson: Hi. This is Marc Anderson. Stephanie, thank you for the overview there. Just one question. I think this has been asked before so apologies if this has been answered, but just take, you know, legal for example. If I have legal expertise, would I be expected to fill out, you know, the legal row as well as the applicable subcategory or sub-column on there as well or would I be expected just to fill in the appropriate subcategory? Thank you.

Susan Kawaguchi: Stephanie, can you comment on that? So - until - I'm not sure if Stephanie can get back on, but I would assume just in a quick review of this is that you should fill out any area that you have expertise on so we really know. We don't want to limit anybody. We want to see the broad range of knowledge. (Lisa), do you have a comment on that?

(Lisa): Yes, since I mocked up the poll for this small team I just wanted to comment that the way it's structured, you can respond or not to any row. So if you wanted to just respond to a general category indicating you have some expertise in that category, then you could elaborate that in the text box for question three if you wish, or not. If there was a subcategory that you thought

was particularly appropriate for you then you could check that as well as the major category. Hopefully that answers the question.

Susan Kawaguchi: Okay. And Greg? Thank you, (Lisa).

Greg Shatan: Thanks. Greg Shatan for the record. A couple of questions/suggestions. Kind of going down from the top, I don't know if this will confuse anybody -- hopefully it won't -- but I take it civil law as it's being used here means noncriminal law and does not refer to civil law versus common law as two different types of legal regimes. But if anybody thinks that confusing, I don't know if we want to make any changes. But I just kind of bring that up as something that could be potentially confusing.

So then next is there's kind of a redundancy. When you get down to other commercial expertise, it mentions private sector cyber-crime investigator, which is really quite detailed or narrow. And then at the very end it says nongovernmental investigator/researcher, which is more general. I don't know if we want to have an investigator category that has cyber-crime investigator and other investigator or if those should be combined generally and just keep private sector investigator/researcher with no specific reference to cyber-crime.

And I think hopefully in either case it's expected to be - it's not somebody who just generally, you know, does research into like, you know, how many Italian restaurants are there in Marrakech but it's, you know, an investigator who's hired to investigate things and people and to these activities related to, you know, where the data in RDS or Whois would be relevant. But kind of question whether those categories should be separate and whether that last category perhaps should be at least brought up to the other commercial expertise category. And the other relevant expertise row probably should be a row of its own. That's probably just an editing thing.

Next, the row that's marked government advisory. When I see the term government advisory used that's usually a fancy term for a lobbyist and not for government itself. So I might take out - just have the category that's now called government advisory called government, and then perhaps have government advisory/lobbying as a separate expertise? I'm not the one who suggested government advisory in the first place, I'm just saying how I tend to see it used. So I don't think it's the right heading for kind of actual government employees. Those are my comments for the moment. Thanks.

Susan Kawaguchi: Thanks, Greg. Stephanie, did you want to comment? I noticed you're in the chat room. Let's see, you have made several comments.

Stephanie Perrin: Let me try again. Can you hear me?

Susan Kawaguchi: Yes.

Stephanie Perrin: No? Oh, good. Wonderful. Okay. So I think those are great comments, Greg. The government advisory I took people to mean the GAC, because we have a few GAC members here and that can cover quite a range of government functions. So then we subdivided into government officials and others, I think. Government officials.

Legislative, as I said when I ran through it, I'm not sure what that means. If it's courts, we've already got courts covered under law enforcement. So, you know, I'm a little confused about it myself. But we tried to roll everybody's comments in here.

In terms of the common law, civil law, it's certainly an issue in Europe and in Canada and in plenty of other countries as well. But we did mean the civil courts versus the criminal courts, you know? So maybe we need to clarify that, put a little bit more in there.

In terms of the different investigators, we did not intend lobbyists in here, unless I missed something really vital. And I did go to the late night meetings. So possibly we need to clarify that as well, because I think that's really quite confusing.

The special category of private sector cyber-crime investigator, we have quite a few folks who have already claimed that kind of expertise. So I think it does require a separate category, and I'm not comfortable with having just investigator because it covers - I mean who is an investigator? An academic is an investigator, a researcher, you know. We have all kinds of investigators. So I think was Steve Metalitz's addition and he might want to talk about it.

But we had a lengthy discussion about security and the various aspects of security, and cyber-crime investigation certainly I think fits under that. And Michele I see just put into the chat that you have former government types around.

You don't have to be a current - have a current function to list it. The whole point, you know, having spent 30 years in government, I will certainly list government expertise and clarify on the box that I'm not doing it now, you know? So - and let's be clear about that, folks. It's not what you're doing right now, it's the expertise that you have gathered over the many years. Thanks.

Susan Kawaguchi: Thanks, Stephanie. (Beth Allegretti).

Beth Allegretti: Hi it's (Beth Allegretti). So in the boxes where we indicate our level of experience, what is the difference between none and no answer?

Susan Kawaguchi: Good question. Do you want to answer that - or (Lisa), (Lisa)'s got her hand up.

(Lisa): Yes in constructing this mockup, I assumed that the default would be no answer. Think of these as radial buttons. The default would be no answer for

each of these rows, and then as you fill out the poll, you can click on none, basic, average, or advanced or expert if you want to indicate some level of expertise for that area.

Your point is well taken that none could be no answer. However, some people may actually explicitly want to indicate that they have no expertise in a certain area as opposed to simply not having addressed the question at hand. For example, myself, if I were filling out this poll I might choose to fill out the technical row and check off areas that I have some expertise in. But I probably wouldn't bother filling out the legal row, as that's not my area, so I would leave that at no answer rather than indicating none.

Beth Allegretti: Okay thanks.

Susan Kawaguchi: Okay. Thanks, (Lisa). And, Michele.

Michele Neylon: Thanks. Michele for the record, transcript and all that. The - that's helpful actually knowing about the no answer, none. It's trying to - (unintelligible) is trying to put something that would go into some kind of survey tool into a Word document that we can revise. So it makes perfect sense to me.

Just in terms of timing around this, bear in mind today is the first of March, when will this go out, when is this plan for this to go out, and what will the turnaround be on this, Stephanie? Thanks.

Susan Kawaguchi: So - this is Susan. This should go out shortly after this meeting, though taking into consideration some of the comments, so it may take a little bit longer. Stephanie, did you - and I don't know on the turnaround. (Lisa) or Stephanie could you answer that? I'm not sure if Stephanie can get back on. (Lisa) can you - do you know how long the poll will be out there to - for people to respond?

(Lisa): Sure, so what the timeframe that the leadership has suggested, but of course that's, you know, subject to revision in this call by the working group, is that we try to get this poll posted today without any further delay, that we leave it open through the beginning of the Marrakech meeting. So that gives you roughly a little under a week to respond. And then that gives the small team an opportunity to review the results in advance of the Wednesday meeting in Marrakech where we could discuss any possible outreach needed to reflect the results.

Susan Kawaguchi: Okay thanks. And Marika, did you have a comment on that?
Marika?

Marika Konings: Yes sorry. My raising hand is very delayed. But Susan already covered it. So.
(Lisa) already covered it. Sorry.

Susan Kawaguchi: Okay thanks. All right let's go to Kathy.

Kathy Kleiman: Great. Thanks, Susan. Can you hear me?

Susan Kawaguchi: Yes I can.

Kathy Kleiman: Terrific. Okay so I have a question for Stephanie about the noncommercial section. And it has to do with nonprofit and other. And I wanted to ask what those mean and just comment that nonprofit, as has been drilled into my head now for so many years, nonprofit is, as I understand it, a U.S. tax category that doesn't apply to many of the NGOs in the world, which are noncommercial but not necessarily nonprofit under U.S. law. So would it be - would another category for NGOs be appropriate?

And also, where would we put those NGOs specifically that specialize in the types of risks or harms that this working group is going to need to be aware of, including the specialized in domestic violence, who we heard about in the proxy privacy accreditation working group, journalists and political minorities?

Would NGO cover that category? Do we need something else under noncommercial? Thanks.

Susan Kawaguchi: And, Stephanie, can you respond to that?

Stephanie Perrin: Stephanie Perrin for the record. Can you hear me?

Susan Kawaguchi: Definitely, yes.

Stephanie Perrin: Wonderful. I can't figure out what's going on with the microphone. Anyway, I think that though you could put any of those not-for-profits under the noncommercial, you could put it on the top line, you could put it under the non-for-profit, you could put under other, I understand the desire to have those folks presented, I don't think we can keep subdividing and subdividing and subdividing.

There is an innate problem with this in that if you're looking globally, I see that Karnika has given us an explanation for what legislative means. That's certainly not how we described that function in Canada. I would call that policy. I would call that a government official doing policy, and I did it, you know, so I think I know what I'm talking about.

It'll be different in countries in Africa for instance how we tag these things. So please, folks, we can't subdivide these things in to all of the categories, but if you don't think that the noncommercial category is explicative enough that people will identify their expertise there, Kathy, please suggest something. In my country, there are government people who work on domestic violence issues, changes of identity. I would hope that they would identify that under the government official role and put in the blank text box so that we know what we're talking about. Thanks.

Susan Kawaguchi: Okay, Stephanie, thank you for that. And Karnika?

Karnika: Yes. I just wrote that, you know, you can read (unintelligible) is something that other jurisdictions do not use to mean policy drafting or policymaking. We can reword it as policy drafting or policymaking if that is (unintelligible).

Susan Kawaguchi: I'm sorry, Karnika. I didn't quite catch that. Stephanie, can you respond? Or, Karnika, would you like to say that again? I apologize.

Karnika: Okay. I was just suggesting that in case of the different countries where this term is not really very, you know, commonly used, we can instead use the policy drafting if that is something which is easier to understand.

Susan Kawaguchi: Okay. That makes sense.

Karnika: Yes. And secondly, I highlighted that there was that if there are more categories which a person fits into where there would be, you know, able to give his expertise on, so that is an option with the person of whichever categories apply to that person can definitely mark those areas.

Susan Kawaguchi: Okay. So I think people can mark as many boxes as they feel they have the expertise. So I think we can capture a lot in this document. Alan, let's move on to you.

Alan Greenberg: Thank you very much. I really don't think it's worth putting an awful lot more time into this. This is not a particularly precise instrument. We're not asking for documentary proof that someone actually has the skills they're taking off. The main purpose, as I understand it, is to make sure that we don't have any big gaps. So let's put it out there. If we end up with some categories where there - no one has said they have any expertise, then we need to explain it a little bit more and see if someone misunderstood the terminology.

I think the other at the bottom needs to be - have more focus. That is, do you have other expertise that's applicable to this PDP that you believe you should call attention to so we can look at that and see if they misunderstood some

other category or indeed did we forget some category. But beyond that, you know, this is a quick measure of are we ready to do the work. And I don't think we need to agonize too much over the details. Thank you.

Susan Kawaguchi: Okay, Alan. And actually I agree with you, except I do have a couple comments on my own. But let's start with Greg.

Greg Shatan: Hi. Just briefly since this is my second go around. I just want to point out that legislative I think is still needed for the - for what I think of the meaning, which is, you know, experience in or with legislative bodies such as congresses, parliaments, you know, Council of Europe, whatever it may be, although they technically don't quite make laws but, you know, lawmaking bodies.

That's what - when I think of a legislator that is - and a legislature, that is what that means. If we want to have a separate line for, you know, policy staff, you know, that's fine, but I don't want to lose - if we have actual legislative experience either in staff or, you know, sitting as an actual legislature, we shouldn't lose track of that.

And I also agree that the other category, you know, needs to be - really has to be as inviting as possible to get other information. Because I - no matter how many things we try to think of here, especially as we're trying to keep it high level, you know, we're not going to be able to, you know, list everything.

And I think there is a secondary gain from this poll not just learning what gaps we might have or absences but also learning the presence of expertise and, you know, not everybody wears every piece of expertise they have on their sleeve. So it would be good to have a place where kind of people are positively encouraged to offer up that expertise so we'll know that we may have some interesting expertise.

Finally, a couple of categories that, you know, could be relevant that aren't listed here, I'm not quite sure where they would go, would be cyber security,

which is really different from data protection. And the only place we mention cyber-crime in the private sector is in investigative and not any other role. So I wonder if there's a cyber security slot that could be used. Obviously somebody could put that in other. And the same thing goes with anti-piracy. There's no place for that here either. That's all I've got. Thanks.

Susan Kawaguchi: Thanks. I do think the tech security may fill both of those slots. And before we go to Stephanie, if you don't mind Stephanie, I did have a question about -- personally, in my own capacity -- under operational, I was wondering why proxy vendors or services were not included in that. Sometimes they are associated with the registrar but not always.

And then I'm assuming that e-business would be the slot to indicate expertise if you, which, you know, there are several of us on the call, including me that manage domain names for large businesses, and so is that what e-business was intended for, was you have an individual registrant under Internet users but these are not individuals, it's corporations? So it would be good to hear answers to those questions too, Stephanie. Are you there, Stephanie? I see the red flash.

Stephanie Perrin: I'm here. Can you not hear me?

Susan Kawaguchi: Now I can hear you.

Stephanie Perrin: Can you hear me again?

Susan Kawaguchi: Yes.

Stephanie Perrin: Maybe there's just a time lag. Okay. Stephanie Perrin for the record. For those not watching this chat, I strongly endorse what Alan Greenberg said about let's not gild the lily here, folks. This is a blunt instrument and we can't put everything down. So I think that Greg -- I don't want to pick on you, Greg - - but you raised a number of interesting points but that's what other is for.

This thing is going to be so big, nobody's going to want to fill it out if we keep adding categories.

On the cyber-crime, cyber security, of which we have a ton of people, if they can't find themselves under technical because they don't do technical, check the box anyway and explain it under other. Because obviously social engineering is a major issue now and you could be a real expert but only on social engineering.

So frankly I think we have to draw a line under this thing and get it out and implore people, and maybe (Lisa) we could work on imploring language to implore people to embellish on their various areas of expertise in the open box. Because I presume the task of reviewing this is also going to fall on the little sub team, and I put up my hand and say I'll happily read everything you put in that spec box. Just let's please not make it three pages, you know?

I don't know about (Susan)'s issues on e-business. If you can think of a way of amending it quickly I agree that that's a rather light category but again can we not put it in other? E-business is very broad.

Susan Kawaguchi: Yes.

Stephanie Perrin: Thank you.

Susan Kawaguchi: No and I agree with that any - that we should not make this huge that we need to get it out and the protect box allows all the comments necessary. One reminders of the whole working group too is this is the you're the - each working group member's personal expertise. You know, in my own capacity working for Facebook I could answer all of these. But I don't have that expertise myself so it's not the company if you do work for a company. It's your own personal experience. So I just want to caution you to keep that in mind as you answer the polls.

And I think we've come to the end of two and so we'll send this back to small group. Stephanie, you know, maybe if there's any changes that you're going to make, you know, please work with Lisa on that and we'll see if we can get this out to the whole working group. Just as a reminder again anything you feel like to the working group if you do not see a category for it please put it in the text box. And hopefully Stephanie won't be reading forever or the small group won't be reading forever.

All right so I think we can close on that one. And the next point on the agenda is to review the rules of engagement in the charter. And staff is going to work - walk us through that.

Marika Konings: Yes this is Marika thanks. (Susan). So basically we put this item on the agenda just to make sure everyone's of the rules as - of engagement as they're outlined in the charter which obviously derived from the GNSO Working Group guidelines. So these are basically the rules under which all GNSO PDP working groups operate. And as that we think it's important that everyone understands that as a starting point. No doubt we'll come back to this at the relevant point in time to make sure everyone's on the same page. But we already wanted to point it out now as well that we start looking at our work plan and then starting to engage of course in our deliberation.

So the first part I want to point out is that within the GNSO context there are number of consensus level designations that are used. You may have heard these terms before but again it's important to know that in a different context they may have a different meaning. So the way in which consensus levels are assigned to the GNSO Working Groups for the different level is first of all there is full consensus basically when everyone agrees and no one speaks against the specific recommendation. There is consensus a position where only a small minority disagree - disagrees but most agree. I mean I think it's important to remember that some people sometimes think that consensus means that everyone has to support or agree with a certain position. But in the GNSO context that is not necessarily the case.

Then there's also strong support but significant opposition which is a position where most of the group supports a recommendation. There are significant number of those who do not support it, divergence where basically there's a position where there isn't really strong support and many different points of view.

And then there are also minority views that may be expressed that refer to a proposal or a small number of people support a recommendation but not a recommendation that has achieved the consensus perspective or the strong support that significant opposition and where they want to make that specifically known.

It's important to recall remember as well that this is not a numbers game as such. Basically it doesn't mean that there's a specific percentage. If, you know, 75% working group members say yes that means consensus. It's a more delicate balance and assessment that takes place as part of the GNSO process. As of course consensus needs to be weighed as well looking at that presentation in the group as we do of course want to avoid that our working group is staffed just to count numbers.

In that regard the chairs play an important role in that consensus development process which is really an iterative process. And basically after the group has discussed and the chairs - the Leadership Team believes the working group hasn't arrived at a position where it's clear what those views are they may basically indicate well we believe that we have consensus or full consensus even. That is basically communicated to the group and it allows everyone to say well yes we agree or actually no, I actually don't support this yes and I believe other colleagues don't support it either. Can we discuss a bit more?

So this is an iterative process that the chairs go through what the Working Group to be able to at the end of the day to make it a determination where

the group stands. And again as part of that process the chairs will indicate whether there's full consensus, consensus, strong support but significant opposition or no consensus on certain recommendation.

It's also important to note that and again it's really for the Working Group to review or decide how to do that in regards to either their initial report or the final report. In certain cases groups will just determine level of consensus on the overall report and basically say this is, you know, report has a consensus with all the recommendations in it or there may be a need to actually go to the individual level if there are certain recommendations where there is consensus. I don't know the recommendations there may be a different level it may also go down to an individual level of designation of what level of support it has.

Another point to keep in mind as well as is that this - the designation level is expected to be included in the final report of the Working Group because this is an important guidance to the GNSO council when it considers the recommendation to be able assess what level of support was there in the Working Group for those recommendations. And basically talking from personal experience it often then is that consensus and full consensus aligned as well the support that is then seen in the GNSO council which is reflected in the votes that are expressed on a proposal.

One thing to note as well and you may have seen it in another working group that sometimes polls are used to assess a level of support. However the Working Group guidelines clearly point out as well that great care needs to be taken with polls and they're basically only used when chairs really don't see another method to assess the views of the Working Group as there is of course all kinds of potential issues associated with polls, you know first of all, you know, it's asking of the questions, how are questions framed? Do people understand exactly what is being asked?

And then of course as well, you know, polls often come down as well to more accounting of responses which again is not the way in which the level of consensus is assessed in the GNSO Working Group context as more factors need to be taken into account such as the where are the different voices coming from, are all those disagreeing coming from the one specific organization or part of the ICANN community or is it broadly spread across different groups which may influence or impact as a way in which the chairs and make their designation.

The Working Group guidelines also clearly point out what processes in place should several participants disagree with the ultimate designation. That is given by the chairs of the PDP Working Group so there's a specific, you know, set process that is in place by which the Working Group members can raise that with the chairs the liaison. And at the end of the day it really comes to that end it could even re-result in an appeal to the chartering organizations. But just speaking from experience here I don't recall any occasion where that has actually happened. So of course we're hoping as well that that is not necessary here.

So I think that in a nutshell explains the process as well as the way in which consensus is assessed in a PDP Working Group context. And as I noted before one other thing that the Working Group will need to consider eventually is at what stage it wants to go through that process of already assessing consensus.

There's of course an opportunity to already document that as part of the initial report. But I want to note as well that these spatial experience with all the PDP working groups often groups choose not to do so at the stage of the initial report but more indicate in a general sense. These are some of the recommendations we are putting forward. We actually haven't done a formal consensus call yet although, you know, we do - there is agreement to actually consult the community on these although nothing would prevent you either

from at that stage already clearly indicating if there is consensus for certain parts or maybe not others.

But it is a requirement for the final report to have the consensus levels included in the report and the recommendations and especially those cases where there is no full consensus. Those will have the names associated of those people that may not agree or support the recommendation. So again to give the council a full perspective of the support or lack thereof for certain accusations.

And I think I'll leave it at that for now. I don't know if there any questions.

Susan Kawaguchi: Thanks Marika. It looks like (Grace) has a question. (Grace) I think you're on mute.

Okay so (Grace) are you there? Are there any other questions on the rules of engagement? Oh great. We still can't hear you that the flash is off your microphone.

Okay I'm not sure (Grace) if we can - are you talking? We cannot hear you. Or I can't hear you at least.

Okay she's going to type the question. But we can hear you typing I think. Stephanie would you like to ask the question? And you do have your microphone has the flash in it. There we go.

Stephanie Perrin: Okay Stephanie Perrin for the record. Thanks for that rundown Marika. Can you just clarify what is our scope if we discover that the charter is somehow constraining? Remember when we reviewed it the feeling was that it was really quite flexible comprehending the amount of work we're doing and the fact that things may change as we go along. What's the process if we decide to do something or not to do something that is in the process, in the charter?

Marika Konings: So this is Marika. I think as you said, you know, the charter has a lot of flexibility because I think in many instances it will talk about, you know, at a minimum this is what the Working Group is expected to address. But regardless of that the Working Group believes it is - it has constraints or it's of the view that it would like clarification on what it's expected to do then it would need to take that back to the GNSO Council.

So again that could take two forms and again talking from experience with other PDP working groups in certain cases it may just be a clarification where working groups basically ask we understand, you know, this would be part of our remit. Can you confirm that is the case? And the council then may say yes or no or in some cases where the working group really believes that certain aspects are not covered in the charter and as a result are not covering the work that needs to be undertaken in order to address the charter question the working group could also go back to the council to ask for a change to its charter if there's a specific process that the council would need to approve those changes to the charter but there is a process that would be available should the working group really believe that there are certain crucial elements missing in the charter.

One thing to note here as well is that of course the charter and the way the work has been organized is basically based on the work that was carried out by the board and GNSO Council Process Working Group. So a lot of thought and effort went into that. And that basically has dictated the way the issue reports first has been structured as well as how the charter is structured and as a result also is the work plan has been developed. So is there any, you know, fundamental issues with the process framework and how that was proposed? My personal understanding would be that that probably would need to be a conversation, you know, between the GNSO Council and the board who both jointly agreed to this proposed process for the specific PDP. So basically have a conversation with those two groups to explain why the working group would believe that the actual framework as originally

developed and adopted and does not meet the needs of the PDP and then for kind of joint decisions, you know, that those concerns can be addressed.

But again that's my personal interpretation or assessment in relation to the process framework and but the first step would always be the GNSO Council to consult and get guidance on these questions.

I know maybe also to note there that of course as a parallel effort that the leadership team has reached out to the board working group that has been created on RDS to talk through, you know, what mechanisms of engagement or consultation should be put in place to facilitate as well the exchanges of views and, you know, potential raising of concerns or potential limitations the working group believes are as a result of the charter. I hope that answers your question.

Susan Kawaguchi: Okay thanks Marika. Are there any other questions on the rules of engagement? Okay it looks like not so we're going to move on to Item 5 which is the work plan, draft work plan. And Chuck has worked very hard on this. And the Leadership Team in general has reviewed it and we've spent some time discussing it and made some revisions. And I - and it was sent out and I think there were several questions posted in the email thread. And I apologize did not - some of those I read and some of them I just didn't have time to get to them.

So we're just going to go through this pretty briefly and get to for the meat of it. So I think most of this Chuck probably reviewed last week but you know phase one is really recommending requirements for registration directory services. And policy is to be made in the following phases. The board recommended the EWG final report to be the starting point. But that doesn't limit us to just the work of the EWG.

And so if we just, you know, decide on other requirements but we put those, make sure that we're considering those so to create a comprehensive and

inclusive list we need to seek input from the SOs and ACs and, you know, the community in general. And there are 11 questions under that the requirements could be grouped that we need to review all of those questions and then but not consider any of our decisions final until we've looked at the overall picture and then come back and review again.

And if we reach consistent - consensus on a requirement related to questions 1 through 5 the Working Group should attempt to reach a consensus recommendation. So and I think everybody has scroll capabilities on this. So if we go to Page 2 we definitely we Chuck has created a draft work plan. You all should have a copy of this in your email also.

And, you know, some of these we've done. We've approved the Leadership Team members and we're moving on. We've just today we reviewed the rules of engagement and we are - and we're working on identifying expertise through the poll of the working group membership.

So, you know, if you've had time to review this and the charter then are there any questions on - and I know on the thread the, you know, email thread there was some questions about where we really start with this. So if anybody wants to discuss that now or we can just walk through the target date and the - all of the SLA SLAC outreach. Okay Stephanie.

Stephanie Perrin: Thanks very much. Stephanie Perrin for the record. I've raised this issue with Chuck and he assures me that the order is okay the way it is. But there is a as they say in French a...

((Foreign Language Spoken 0:20:33)).

And that is it was - I read it again in the charter what registration data needs to be collected is undisclosed for what purposes? And it does seem to me that if we don't ask that question -- and it's a somewhat philosophical one at the beginning -- we risk accepting as kind of a...

((Foreign Language Spoken 0:20:56))

the use cases that will come forward in the order that we have right now. Now Chuck has assured me that we will be not accepting all of the possible data elements and uses from the get go. But I still think that we need to have a clear understanding of the group at least of where we disagree in terms of the purpose for the collection is undisclosed of registration data.

And this is as I said in previous meeting the frame from which someone in the data protection field examines the use of personal information is somewhat different from the way ICANN goes about engineering its processes. And so that's claim number one. I wanted discussion on that sort of up front.

And claim number two I'll just spend some quality time on the Whois conflicts with law implementation I forget even. We were a bunch of volunteers. We were not a working group. And it was an entirely unsatisfactory experience from many of us' perspective because we just more or less reapplied the process that is in there now.

I asked repeatedly why do we not invite the data commissioners who have written to ICANN to intervene and explain how they view this and I never got an answer. And I would ask that same question right now. We have and I circulated some of the data protection documents, the key ones. The data protection commissioners are concerned about Whois from a number of perspectives. They're concerned about data retention which is part of that original question that we were tasked by the board to answer and they're concerned about escrow.

Why not talk to them up front so that we understand the risks that we are putting the registrars and the persons who will have their service seized and their operations shutdown and in some cases fined. Why don't we do that upfront? Thanks.

Susan Kawaguchi: Okay thanks Stephanie. So let's just - the first part of your question was basically purpose versus data and which one, you know, chicken and the egg which one comes first. And I, and you know, since you and I both were EWG we struggled with that identifying data elements and then, you know, also the purposes and like what is truly needed and what isn't and what shouldn't be used by third parties -- all of those questions. It's a hard nut to crack in my opinion.

And I think those are, you know, today we won't have the time to go through an in-depth discussion on this draft work plan. But those are good questions that we should think about in Marrakesh. So staff can just add that question to the - is one of the agenda items for Marrakesh I think that would be helpful. There's definitely differing points of view on that.

And I don't - I can't give you an answer on, you know, and I'm not sure you were expecting an answer from me anyway about talking to the data protection authorities. But that could be a discussion point too for Marrakesh. Is that something that is even feasible? You know, my key question to that is will they respond to us when it's we're sort of talking in generalities? So that's my viewpoint but let's put that - let's make notes on those two things and put that on the list for Marrakesh.

And (Kathy)?

Kathy Kleiman: Hi (Susan). Hi all. Following up on Stephanie's discussion, several things. One is that of course we've just gotten this draft work plan. And so I thought that we may not be able to close it by next meeting. We're all in route. And many other issues are going to be coming up so that I hope it's not the end of the world if we continue to discuss it even after next week. You know, maybe for one more week because we just gotten it and it's a very important. What the roadmap is for what we do is very, very important.

Wanted to know - or I wanted to - beginning to get comments. So I wanted to support (Scott)'s comment that Question 4 become Question 1 and wanted to reiterate my comment that Question 5 become Question 2. These seem to be the foundational questions what data is being collected stored and disclosed, what data should be collected stored and disclosed and then what are the constraints on that data? You know, what data protection laws, conference and data protection laws are approximately half of the world now and certainly involve many registrars where they're located and more registrars where the registrants are located? So are there constraints on our evaluation? Are there things that we should be understanding about primary use and secondary use, understanding kind of data protection laws writ large would be very helpful for that. Am I still on the call?

Susan Kawaguchi: You are.

Kathy Kleiman: Okay.

Susan Kawaguchi: I'm not sure who dropped off.

Kathy Kleiman: When they silence it I'll...

((Crosstalk))

Kathy Kleiman: ...(unintelligible). And the other thing and I wanted to ask you (Susan) when it comes - one of the things we did on the Whois Review Team even before the Expert Working Group was which (Susan) and I were on together was looking at going through the actual elements of what we collect in this Whois today and trying to understand whether they're technical or operational, you know, for what purpose are they being collected? And that was really we did that session early on. And it turned out that was really an informative session for everyone because a lot of people didn't know all the elements that are being collected in the Whois. And so starting with what we're doing now and why

we're doing it where is that in the work plan and then how do we talk about reevaluating the questions for a slightly different order? Thanks.

Susan Kawaguchi: So thank you for those questions. And just to - Lisa - well, I'll get back to you in a second Lisa but so you're advocating - well (Scott) advocated that Question 4 on data elements become question one, what data should be collected and stored and disclosed. You're advocating Question 5 which is privacy what steps are needed to protect data and privacy should become Question 2 which is data access, what steps should be taken to control data access for each user and purpose.

Like I - in response to Stephanie, you know, we really the EWG -- and this is my personal capacity not as the chairing this today but we really struggled with identifying the data element. And actually I was right there with (Scott) to begin with. But let's look at the data elements. Let's look at the current Whois, see what data elements are being collected and should they be disclosed and do we really need those anymore? But at the end of the day that was - that session always ended up in what is the use of the data and the purpose. So then we sort of revamped our thinking and centered on users and purposes and came up with a case, the use cases.

So as part of the boards GNSO Working Group that tell us - that help develop the charter it seemed important to me that we start again because we spent so much time in the EWG talking about use cases and the users and purposes that it's hard to answer the other questions unless you've done that. You tend to jump back to that question. That's my personal viewpoint on that. But, you know, that - it definitely warrants a discussion in Marrakesh on that. And Lisa?

Lisa Pfeiffer: Thank you (Susan). Lisa Pfeiffer for the record. It occurs to me that some of those questions or suggestions regarding, you know, what order each of these questions should be dealt with that it might inform us workgroups discussion to get somewhat of a tutorial on the process framework that the

group of GNSO councilors and board members came up with. I know that that's posted on the wiki and you've all probably read it to some degree but it might be useful for you to actually have an overview of it in Marrakesh or in a future call to be able to ask questions and get out why that group came up with the order that it did. Because it is largely intended to reflect dependencies and try to overcome the impasse that the community's pretty much been stuck on for a while now. That is not to say that the order they came up with this perfect but just hearing the rationale behind it I think might be helpful to this working group.

Susan Kawaguchi: Actually I think that's a really good suggestion Lisa. Do you think we could put that on the agenda and reach out to the other members of the four GNSO Working Group? Bruce Tonkin had a lot of input, so did Steve Crocker and then some of the other councilors.

Lisa Pfeiffer: Yes.

Susan Kawaguchi: Great.

Lisa Pfeiffer: It may be aggressive to try to get that scheduled before Marrakesh but we can certainly make the request and try to get scheduled if that's something this working group wants to pursue.

Susan Kawaguchi: Okay. Yes that's you're right we just had a few days before Marrakesh starts really. So does anybody feel that, you know, getting that rationale and talking to the board GNSO Working Group who developed the charter and the plan, you know, propose to the three phases makes sense? Anybody disagree with that?

Jennifer Staniford: Hi (Susan), this is (Jennifer Staniford). I do not disagree with that.

Susan Kawaguchi: Okay. Okay. Okay and Greg you have your hand up so let's go to you.

Greg Shatan: Yes thanks. Greg Shatan again. I think in terms of the order of questions (Susan) I tend to agree with (Susan)'s logic that we really do need to start with users and purposes. We don't have to call that requirement but users and purposes because we can't answer for instance the question about what's now currently a question for really without knowing who the users and what their purposes might be. And that's - so I definitely would have, you know, one before four. Whether we move four up to two is, you know, another question. I wouldn't mind seeing it that way. I mean data accuracies could come at and any point and it might actually make sense to have data accuracy after data elements because different types of elements will require different types of accuracy and the like.

And gated access, you know, I think is perhaps something that comes after both understanding the users the purposes and the elements. So perhaps the order should be, you know one, four, two, three, five. I would say still think the - or the steps needed to protect data and privacy are kind of linked to the gated access. So those could be near each other. I don't think we need to put the steps needed to protect data and privacy all the way up front.

Finally I think this is all this is going to be iterative. So not only just like with chickens and eggs ultimately you end up with chickens coming after eggs and eggs coming after chickens. So hopefully the starting point here is not going to influence kind of the work we do. And, you know, one of my concerns and maybe I'm just paranoid is that there are, you know, ways to kind of influence where the work goes by influencing by deciding the order in which the work is done.

I hope that we're going to end up, you know, being iterative enough and in our early processes be open to kind of over, you know, I guess putting our - putting everything on the table rather than trying to fight to put elements on the table. So I think that ends up kind of frontloading some of the more difficult elements of the work. And I think that, you know, once we have a

better understanding of the universe of these five points we'll be better able to answer some of the difficult questions that we inevitably will end up with.

Thanks.

Susan Kawaguchi: Thank you Greg. One thing I'd like to point out too is that literally you know half with looking forward what should to - the registration data be in the future not necessarily how do we fix the current Whois. So that's - that is a question we need to get to also is to even think there is a need to replace the current Whois?

So this should all be forward-looking and not focused on what is currently being done. And that is something that EWG tried to do. We didn't - we tried to remove from our minds that the, you know, what was current, the current status was. But interestingly we came up with a lot of the same use cases of what currently exists. So Lisa - I mean excuse me Stephanie has his hand up. And your microphone has a red line through it. So if you're talking we can't hear you.

Stephanie Perrin: Okay. Take two goes at clearing my microphone for some reason. Stephanie Perrin for the record. I'll promise I'll stop after this. But I just want to reiterate that the fundamental framework for determining the purpose of the question, use and disclosure of the data which is one of those...

((Foreign Language Spoken 0:37:27))

...that are in the - that are in our charters there are various things that have to be evaluated -- fairness, proportionality and ICANN's broader purpose. And that of course feeds into ICANN's broader public interest purposes. So the unfortunate thing about - - and I quite agree you can't understand what's going on with the data from an engineering perspective because you don't understand what people are using the data for.

But if you skip that fundamental question of what ICANN's responsibility is as a data controller but understanding (a few) sites obligation then I hate to say it but you're going to have to listen to me shrieking at every single use case that's illegal, that's a violation of fundamental human rights, that's, you know, the SSAC three blind men and analysis said figure out why we're doing this because, you know, we have just continued keeping on adding more data elements as more players join the ecosystem and wanted different data elements at different rates of accuracy this all has to be evaluated from a fairness and proportionality perspective not me, not quote requirements.

And the unfortunate thing about our very long list of expertise if we get every single stakeholder who's making money out of personal data that is being a legally released right now at the table and there are no data commissioners coming because they are more or less or becoming...

((Foreign Language Spoken 0:39:13))

...from the get-go because of their independent judiciary role we're going to be in trouble folks. We will create yet another thing that is illegal. I'm sorry I'll stop now but this is a fundamental question that we have to at least skirt around before we dive into the data elements. Thanks.

Susan Kawaguchi: Okay Stephanie thank you for that passionate statement. Jim?

Jim Galvin: Thank you. This is Jim Galvin for the transcript. In talking about SAC 55 and, you know, three blind men analysis and, you know, the foundational question that SSAC was asserting in that document is what is the purpose of registration data I still think it's useful to keep in mind SAC 54, the document that immediately proceeded that where we talk about, where SSAC talks about a data model for registration data which asks the question about purpose of registration data in a slightly different way.

One of the questions that I would ask here in this group and I think we seem to be dancing around this, the EWG report did a very good job of looking at all of the current uses of registration data, Whois data, you know, on the backend it's really registration data so I'm going to use that phrase, all of the current and existing uses. So the question that I would ask is what really is within ICANN's agreement or what should be the base focus of why we have registration data?

If you go back to SAC 54 you look at the data models that SSAC was proposing consideration as a starting point was based on the model that the reason registration data exists is to support the management of a domain name in its lifecycle. Many of these other use cases I would assert if you look at CWG reports are all sort of ancillary to that. They are additional things that people want to do because domain names exist.

You know, are we required to actually address all of their needs and ensure that we collect all of their data is to serve their purposes? Is that really what's the what the purpose of ICANN is and the purpose of this group and looking at the next generation registration data? So, you know, I leave you with the idea that as we talk about SAC 55 and the purpose of registration data I also wanted to tie it to SAC 54 where a model for registration data that was proposed was to support the lifecycle of a domain name. And so I would question, you know, after some discussion at some point here in all of this about how all of these things tie together and whether or not we're going to broaden the purpose of the data model. Thank you.

Susan Kawaguchi: Thank you Jim. Michele?

Michele Neylon: Thanks. Michele for the record. Speaking as a dirty filthy registrar who is expected to collect a lot of this data Jim raises some very valid questions. And I don't know whether we're able to answer those, whether they're within scope of our charter or not. But those questions can't really be ignored. I mean just speaking just as an individual member of this working group.

The problem I suppose is it's one of (tabis) or to use another analogy, you know, the genie is out of the bottle. People have gotten used to having access to a lot of this data. That's coming from my line. Okay it stopped. Yes well that went straight into my ear. I'm wearing ear piece.

I guess well I'm on a mailing list where somebody was complaining about a particular ccTLD. And it wasn't that the ccTLD had any actual issues of abuse or anything like that. The complaint was, "Oh, I have to work a bit harder to get access to some of the data in order to be able to investigate some kind of complaint." Now why is that the ccTLD operator's problem? You know, much as why do some people assume that they're entitled to a huge amount of data just because historically it was there?

I mean one of the things that I think (Susan) and some of the others who were on the EWG can agree that when we were looking at a lot of this of this we looked at how much data was going to be available and under what circumstances? You know, the idea that it would just - you would have free and unfettered access to everything was something that we didn't consider, I'm sorry we didn't consider it to be acceptable as a norm that every bit of data needed some level of protection and it was really a matter then of are doing discussing, defending whatever the levels of protection that were wrapped around it. So I think, you know, Jim's point is well made. Thanks.

Susan Kawaguchi: Thanks Michele. You know, and this is my personal capacity again not in leading this call but I think the EWG and Michele didn't agree with this but I think we did look all of those in looking at - in reviewing and looking at use cases first we sort of stepped through the lifecycle of the domain name and identified what was necessary to really from my perspective manage that domain name from beginning to end and what I needed Whois - I needed to see my own who is data and verify information.

And so I think the EWG - and this is really not - should not be a discussion of what the EWG did or didn't accept that it's - there is some experience that we can learn from and this working group may need to go through the exact same process which is why the first question is users and purposes.

So I do think that if you look at all the use cases a certain amount of those will I think everyone would agree and that were - it's part of that lifecycle of a domain name and that it is necessary for a lot of good reason whether or not those reasons are still viable because this was, you know, a couple years ago or there's new use cases -- those are all things we - this working group should look at in my opinion. So that's just my personal feeling but I do think we need to start with users and purpose. (Kathy) you have your hand up.

Kathy Kleiman: It's interesting it's kind of a philosophical divide here about where to start. And so I wanted to follow-up on what Jim was saying and the foundational questions because I think we're jumping in - with uses and purposes I think we're jumping into the middle of the pond. But if we start with what data elements are being collected stored and disclosed and may be what should be collected stored and disclosed we're starting with the elements. And that's I think where we have to start with what is the data.

And then the question Jim asked before we get to users and purpose is there a framework that will help us analyze primary purposes and secondary purposes because that's what we're going to have. We've got the primary purposes of the data which it looks like we have a lot of material to work from with the EWG and the materials as well as the expertise on this working group.

But so to quote Jim are we, you know, are we required to serve all the purposes of the data that people would like? And then let me follow up? Are we legally allowed to do so? And to do that we have to get to at least a part of Question 5 not what steps are necessary to protect the data and privacy but

that assumes we know what is - what the legal requirements are for data and privacy.

So I really think we have to move that issue up early and then we can begin to talk about secondary use and secondary purposes and kind of how to evaluate them to through the prism of data protection laws which is how the registrars and ICANN can really can effectively legally do it. So I think the order makes a really big difference here. Thanks.

Susan Kawaguchi: More important that we discuss this in Marrakesh in detail. Lisa also has pointed out in the chat that, you know, Page 18 of the EWG report provides a high level statement of purpose that guided the celebrations that may or may not be helpful for others to read. And so let's move off of these fundamental questions because I don't think we're going to be able to iron this all out on the phone today. And that wasn't the intent of this anyway. I may have overstepped a little bit on what Chuck asked me to lead today.

Is there - if you looked at the rest of the work plan are there any other issues or training on the work plan that you consider that we need to discuss or is you don't quite understand? Are there any questions on the rest of the work plan and just setting aside those questions for now? (Kathy) is that a new hand or an old hand?

Kathy Kleiman: Sorry old hand.

Susan Kawaguchi: Okay.

Kathy Kleiman: But it may be a little - actually let me just follow that. It may be a little early for general questions. At least for me I kind of focused on first things and now getting the rest of the plan we just got it so many of us may be still evaluating. Thanks.

Susan Kawaguchi: Yes. And I do recognize that. So what I would suggest is that - and I know everybody's going to be very busy with getting to the ICANN meeting if you're attending and work in general. So but if we could suggest that you do a complete review of the work plan like I said, Chuck has put a lot of work into this and then encourage comments on the email threads and then we can discuss that will help us figure out what exactly we're discussing in Marrakesh. So I would urge everyone to do that.

And also when you read this work plan to go back to the charter and really read the charter once more. I'm sure everybody's read it but it's very helpful to go back and see what the board GNSO working group's intended for this working group. And is there any other questions or concerns? And (Kathy) your hand is still up. Old or new? No old.

All right this is sort of the last call for comments on this. I think we've got quite a few notes to take back to the leadership team in general and a lot of action items. Any other comments or concerns? Karnika? We can't hear you Karnika. I do see you had a question for Lisa.

Karnika: Yes I just want to know the question it's possible to continue the conference after the scheduled time just to discuss expertise which (unintelligible)?

Susan Kawaguchi: Marika or Lisa is that possible? Marika?

Marika Konings: Sorry, just getting off mute.

Susan Kawaguchi: All right.

Marika Konings: I think it is probably possible although of course the call is only scheduled for 19 minutes. But we're actually wondering whether it's not easier just to produce a new version based on the comments and try to (chronolize) it by email. I don't know if there's an easier way to come to a conclusion. And of course I don't know either if all the small team members can even stay on. I

know that several of them are action items on the call. And so it's up to you. I think we can leave the call open for a bit longer but maybe it more effects to do it by email.

Karnika: So would you expect our comments to this mail by tomorrow morning?

Marika Konings: We're expecting to circulate a revised version immediately after the call because we hope to launch the call later today to be able to give everyone enough time to complete the call before we have a meeting in Marrakesh.

Susan Kawaguchi: And this just pertains to the small group, small team. So others are saying that. And Lisa has said but two hours it's - if you have two hours to comment on the poll, draft poll, the small team only.

Will that work for you if Karnika if Lisa sends out the draft Version 4 of the poll and would you be able to comment in the next two hours?

Karnika: Yes. Yes.

Susan Kawaguchi: Okay, so yes. All right so I'm going to give you all back three minutes of your day, not much. But thank you all. And Chuck will be heading up the call in Marrakesh. And everybody safe travels and I hope to see you all there.

Man: Thanks (Susan).

Coordinator: Thank you. Once again the meeting has been adjourned. Thank you very much for joining. Please remember to disconnect all remaining lines. And operator (Ed) if you could please stop all recordings.

END