ICANN Transcription

GNSO Temp Spec gTLD RD EPDP – Phase 2

Thursday, 09 April 2020 at 1400 UTC

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TERRI AGNEW: Good morning, good afternoon, and good evening. Welcome to the GNSO EPDP Phase 1 team call taking place on the 9th of April, 2020, at 14:00 UTC.

In the interest of time, there'll be no roll call. Attendance will be taken by the Zoom room. If you're only on the telephone, could you please identify yourselves now?

Hearing no one, we have listed apologies from Matthew Crossman of the RySG and Amr Elsadr (NCSG). Margie Milam of the BC will be joining for the first two hours and replaced for the last hour by Steve DelBianco. Matt Serlin of the RrSG will join for the first hour, and Sarah Wyld will replace him for the second and third hour.

All members and alternates will be promoted to panelists for today's call. Members and alternates replacing members, when

using chat, please select all panelists and attendees in order for everyone to see the chat. Attendees will not have chat access, only view access to the chat. Alternates not replacing a member are required to rename their line by adding three Z's to the beginning of their name, and, at the end in parentheses, your affiliation-alternate, which means you are automatically pushed to the end of then queue. To rename in Zoom, hover over your name and click Rename. Alternates are not allowed to engage in chat, apart from private chat, or use any other Zoom room functionality, such as raising hands, agreeing, or disagreeing. As a reminder, the alternate assignment form must be formalized by way of the Google link. The link is available in all meeting invites towards the bottom.

Statements of interest must be kept up to date. If anyone has any updates to share, please raise your hand or speak up now.

Seeing or hearing no one, if you do need assistance updating your statements of interest, please e-mail the GNSO Secretariat. All documentation and information can be found on the EPDP wiki space.

Please remember to state your name before speaking. Recordings will be posted on the public wiki space shortly after the end of the call. Also a reminder to please mute when not speaking.

Thank you. With this, I'll turn it over to our Chair, Janis Karklins. Please begin.

JANIS KARKLINS: Thank you, Terri. Hello, everyone. Welcome to the 52nd call of the team. Before going to the adoption of the agenda, I see Matt Serlin's hand is up. Matt, please go ahead.

MATT SERLIN: Thanks, Janis. Can you hear me okay?

JANIS KARKLINS: Yes.

MATT SERLIN: I just wanted to, when Terri mentioned updates to SOIs, let everyone know that the previously announced acquisition of my company, Brandsight, by GoDaddy was actually completed yesterday. So I updated my SOI but wanted to just let the team know that we were now part of the GoDaddy group. Thank you.

JANIS KARKLINS: Thank you, Matt, for transparency. With this, I now would like to see whether the proposed agenda as displayed on the screen would be acceptable to everyone for today's call.

I would like to see whether Brian, who, before the call, suggested that Recommendation 2 should not be discussed during today's call, is still of that opinion. Brian, please?

BRIAN KING:	Hey, Janis. Thanks. I'm not opposed to discussing Recommendation 2, per se, but I noted yesterday that no one had done their homework and that there might be some overlap with Recommendation 1. So, if we get there and we have time, I guess we could go ahead, but I thought we might benefit from efficiencies if there was overlap and that, if we got to that next week, staff might be able to identify any of those areas of overlap and help us gain some efficiencies there. So it's not a formal request that we don't do it but just a helpful suggestion. Thanks.
JANIS KARKLINS:	Okay. With that then, let's see how swiftly we will proceed with Recommendation 1. Then we'll see how much time we will have at our disposal. Indeed, maybe we could review Recommendation 2 in light of our conversation on Recommendation 1 for our next call. For the moment, let's keep all agenda items, and then we will decide at a later stage how to proceed.
	Alan G, please?
ALAN GREENBERG:	Thank you. I'd like to request that the letter from Manal Ismail be considered during this meeting.
JANIS KARKLINS:	Thank you, Alan. We will discuss it under housekeeping issues later, following the formal adoption of agenda.

Let us move to the next agenda item. It's housekeeping issues. We have, apart from the status of PCRT and discussion tables and the proposed planned meeting, an additional element that is the letter from the Chair of the GAC, which has been posted on the team's list just an hour before the call. What has not been posted yet, since Manal does not have the right to post on the team list, is also the e-mail suggesting that the letter was drawn until there is a possibility of my conversation with Manal on the topic. But, of course, the letter is out. I'm happy to collect your opinions and reactions to it.

But, before that, let me invite staff to speak about the status of the discussion tables and the proposed timeline. It was be Berry, probably, who will speak. Or Caitlin.

BERRY COBB: Thank you, Janis. Nothing overly to report here, other than to just to state that all PCRTs and all discussion—draft—have been posted to the wiki. We're starting to populate the column about the review date for the different discussion tables. That correlates with the plan forward that was shared with the list earlier this week. As noted, they're all listed here and ready for consumption.

Just as a reminder, the PCRT links are really just an easier form to review the full comments that were submitted to the public forum that are further divided by the levels of general support for a particular comment. To understand the full scope and breadth of what was being submitted, it is encouraged by the group to review these first and then, secondarily, the discussion drafts, which some groups have already provided feedback in to the Google

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form, which of course will make up most of what is being discussed with Recommendation 1.

The last is just to note that this is the proposed path forward about the various topics that will be discussed over the coming weeks. Of course, this is subject to change based on how expediently we get through each one of the topics and [will] revise accordingly based on better understanding of what the pace is or the cadence by which we're reviewing these comments and hopefully getting to agreements on some of our recommendations. Thank you.

JANIS KARKLINS: Thank you, Berry. I think it should be also understood that the meeting plan and the list of topics that you see now on the screen is very much indicative. Maybe that is more a wish list. Depending on the progress in conversation, it will be revised as we go. We decided to put it forward based on the principle of predictability of our conversation and that groups may mobilize their efforts if they need additional labor force to be called in to review the report.

Any comments on what Berry said and on meeting topics?

I see none. As you heard and read, GAC has submitted a letter basically suggesting that our speed in to high and it is impossible for follow in circumstances of sanitary crisis that many of us are somehow constrained by and working mostly from home. So that is an indication. Since the letter has been received only an hour ago, I don't think that we should draw any conclusion for the moment. Those who wish to take the floor on the subject of the letter, now would be the time.

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I see Alan G and then Volker.

ALAN GREENBERG: Thank you very much. I strongly support what's in the letter. I'll also point out an additional concern if we proceed on the current timeline. I have strong concerns, and the group I represent has strong concerns, that what we are talking about, with a reasonable evolution of it based on the comments, is that we may well produce a report to the GNSO that is going to end up either being difficult for the GNSO to approve or difficult for the Board to approve because of the lack of satisfaction on a good number of the parties.

So I think we have two really strong reasons for reassessing whether we are going to try to meet the schedule we determined we had to or whether there's other alternatives. Thank you.

JANIS KARKLINS: Thank you, Alan. Volker, please?

VOLKER GREIMANN: Thank you. Isn't it curious that this comes from the GAC, who has been advocating for a faster speed all the time? But I understand the implications of the COVID for many participants in this group.

Anyway, I feel that A) we're constrained by our budget. I remember Berry saying that there's no additional funds forthcoming, come what may. So that's maybe a constraint here. I'm also worried that this may just extent the discussion on topics

that no consensus can be found on. It will delay the output of this group by another X months. Therefore, the SSAD will be late in being delivered for another X months. Therefore, legitimate access in an organized fashion to that data that so many desperately need and we would like to give in a good format will be late as well.

So I think delaying our output is a lose/lose scenario for all sides. We're better advised to package up everything we couldn't get to and use a different policy evolution process for that—maybe another PDP down the road, maybe the evolution process that we've been discussing. But I don't think extending our time is worthwhile and will deliver anything that makes people more happy that are already unhappy now. Thank you.

JANIS KARKLINS: Thank you, Volker. Margie, please, followed by Marc Anderson.

MARGIE MILAM: Hi. We support the GAC's letter. We do think that the coronavirus has changed the way that we can respond to issues. We also think that, in this environment, it would be wholly inappropriate for the GNSO Council and the Board to note provide funding for this effort. I do feel that the amount of resources we're looking for is probably less because there are no face-to-face meetings. We, for example, didn't have the one that we were going to have in May, and it might be a while before we have another face-to-face meeting. So the actual cost of supporting this effort past June 30th,

I think, is really not that significant that is should rattle the Board or the GNSO Council.

So, if we want back and said, "We have very important issues to address," then obviously the one we're most concerned about is the legal/natural person distinction and being able to discuss the legal analysis that we received from Bird & Bird and fully explore with the group. That's clearly a topic we could reach some sort of agreement on or discussion on if we had the extra time. So we support having additional time and asking the Board for additional resources.

JANIS KARKLINS: Thank you. Marc Anderson?

MARC ANDERSON: Thanks, Janis. Can you hear me okay?

JANIS KARKLINS: We hear you, yes, Marc. Please go ahead.

MARC ANDERSON: Excellent. Thank you. I want to say I appreciate and understand the comments of my colleagues. Without committing to anything either way, I think maybe a prudent next step to be to reach out to the GNSO Council and let them know that some groups have expressed concern about the timeline and, noting our budgetary and timeline constraints, ask the Board if they have any

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consideration for flexibility for or advice around extending the timelines.

As Berry noted in chat, we do have budgetary constraints that have been placed on us, but, rather than wait and announce a time to reach to the GNSO Council, let them know what our challenges and concerns raised here are. Again, we don't have to commit to anything right now, but I think it would be prudent to at least reach out to the GNSO Council and maybe ask Rafik if we can pass our concerns along and ask for guidance from the GNSO Council or at least raise our concerns with them.

JANIS KARKLINS: Thank you, Marc. Brian, please?

BRIAN KING: Thanks, Janis. I raised my hand to agree with Margie and add that I don't think anybody wants more than the IPC does to have this done in a functional SSAD as quickly as possible. But the realities of the situation, I think, really warrant the request that Marc suggested to the GNSO Council. So I would support Marc's point there and make that a formal request to GNSO Council—to start exploring this—because, I think, if we're realistic with ourselves, to do the homework required—I'm looking at the schedule here—(to tackle three of these sections per call) alone is going to be a real strain. I note that several groups, including IPC, have struggled to finish our homework on time. We've been dedicated and working hard on it. So I would support that request to council. Thanks.

JANIS KARKLINS: Thank you. Thomas?

THOMAS RICKERT: Hi, everybody. I think this is a typical lose-lose situation. If we ask for more time, a lot of folks will say that the GNSO and its policy-making process is dysfunctional because it takes far too long for the taste of money, including governments. If we finish on time, we will get beaten up for pushing this through too quickly.

I guess what we have to consider are a couple of aspects. One is we have started with a commitment to deliver on time, and we have been cautioned by the GNSO Council to actually stick to the budgetary situation [to you leaving] and all that.

Also, I think [Farka] was spot on in saying that we will likely not be able to change positions that have formed over time in our group with more time. I think we've already seen a couple of times that, on some sticky issues, we keep repeating arguments that have been previously made.

So I think that probably the quality of the recommendations coming out of our group will not improve with more time.

The final point is—we've discussed this many times—that this is something that needs to evolve. A lot of work needs to be done during the implementation phase. So I think that maybe a way forward that everyone can live with is to try to wrap this up as soon as we can and start thinking more and discuss more of the ways how this group can provide input and guidance for the phase after this has been gone through the GNSO Council. There will be agreements that need drafting. There will be policies that need to

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be fleshed out. A lot of that will include details that we are having difficulties with at the moment, partially because there are so many moving parts, one of which—I keep repeating this, and I'm happy to—is the allocation of responsibilities and liability. I think we need to push our players to up their game, including ICANN Org, to say who they are. Then I think a lot of things would fall into their places during the implementation phase, where we can, again, according to the PDP life cycle, have an impact with the various mechanisms that we discussed during our last call.

JANIS KARKLINS: Thank you, Thomas. Milton, please?

MILTON MUELLER: Thank you, Janis. Hello, everybody. I think Thomas made very eloquently some of the points I was going to make. Fundamentally my perspective on this is that, if you remove the pressure for us to come to an agreement on various issues, we will simply occupy as much time as is reallocated to us. We'll just keep going and we will fill it up with the same kinds of debates that we've been having.

I think the timeline puts pressure on us to recognize that we do have to come to an agreement and we do have to settle issues rather than just constantly debating them and positioning and doing whatever it is we're doing. I understand we've missed a couple of deadlines. It's very difficult. For some reason, despite the fact that I'm not driving to work and moving around, I'm busier than ever. I have all kinds of requests from students and other

kinds of day job things that require adjustments. But, again, I think it's better for us to struggle and miss a few comment deadlines here and there than it is to take the pressure off and just take a big, deep breath and then coast for another three or four months, not actually getting anywhere. I just don't see what that accomplishes.

I really think we just have to bite the bullet and recognize that positions are going to have to be shifted and we're going to have to come to an agreement as quickly as possible. Thank you.

JANIS KARKLINS: Thank you, Milton. Hadia, followed by Franck.

HADIA ELMINIAWI: Thanks, Janis. Let's look for the reason, actually, we were committed to a very strict deadline. One of the reasons we were committed to that was to go ahead and implement what we have agreed upon: to have a workable and functioning system for access and disclosure as soon as possible. But, practically speaking, now, even if we finish within the deadline, implementation is definitely going to be hindered and delayed because of the [inaudible] circumstances and COVID-19.

So I think that now we do have the opportunity to spend more time on the policy itself, since implementation is going to be hindered anyway and delayed. So let's give the policy a chance to improve. Let's give it a chance to be better in order to have a better-implemented system. Thank you.

JANIS KARKLINS: Thank you. Finally, Franck.

FRANCK JOURNOUD: Thank you, Janis. I would just make the point that I think it's striking that we in the IPC and BC are advocating for this extension when we were always, I think, the ones who were most stridently pushing for a quick result: "Time is the essence. The current situation. The status quo is unacceptable," etc. So that begs the question, why is it that we're doing that? The reality is, I think, we're looking at a result that is going to just not answer the mail—that is, it's just not going to be sufficient from our perspective. But really, as others have said, we're concerned that it's really going to be acceptable for others, including the Board.

We're not saying, "Let's reup this for another two years." I'd rather be in corona confinement for weeks and weeks and weeks than to continue to do this EPDP for years. We're just talking about a reasonably limited extension where we can really nudge out some of the key things that are outstanding that need to be resolved. We don't want to make the perfect the enemy of the good, but, right now, we're not going to get the perfect. We're not going to get even to good. We have a few key things that need to be addressed. If we don't the result is just not going to get even a passing grade.

JANIS KARKLINS: Thank you. Thank you for providing your comments and reactions to the GAC letter. Of course, I will talk to Manal and then see what

could be done and then how we could respond to the GAC's concerns—not only the GAC's concerns but also the concerns of others. So, in all honesty, our current situation is opposite to the one I remember in May 2019. Those today who are argued in favor of completing work as soon as possible were the ones who said that we were not in a rush and vice-versa. As Milton rightly said, without a target we are risking to perpetuate discussions endlessly. So a target date is always good to mobilize efforts and do so. But, since, as a Chair, I cannot impose anything and it is the GNSO Council who is the master of the game, and it is the GNSO Council who set a deadline of the 30th of June for us to finalize all our activities, it should be the GNSO Council who reviews this deadline and provide further guidance.

So, until then, of course we will continue working, to the liking of everyone on the team. If team members think that the proposed schedule is too ambitious and we need to stretch further our conversation, we will, of course, be attentive—"we" meaning leadership will be attentive—and follow the advice given by the team.

With this, I maybe would like to ask Rafik to convey the essence of this conversation to the Council and seek guidance on a possible extension on the work of the team, though there is another element that needs to be added to that communication with the council, and that is that is, please, Rafik, to ask the council to launch the search for the chair of the EPDP team, since my availability ends on June 30th and it will not be possible for me to continue. So I think that now we have an additional two months to find a chair who will be able to organize and manage of the

work of the team or moderate the work of the team before June 30th. If, by any chance, the substitute is found earlier, I would be happy to pass on the bucket as soon as the new chair is identified.

Let me explain why. I was assuming the task with the understanding that significant progress should be done by November 2019. Then it was understood that we could attempt to finalize activities by March. Now we are already questioning the deadline of June. My tenure in Geneva also ends this summer, and I will be moving to a different position. Therefore, my availability after June 30th is not extendable, so somebody else will need to assume this function.

With this, I would like to go to the next item, if you don't mind. Maybe, Rafik, if you could also provide feedback on the reaction of the council a soon as it is feasible. Thank you.

Let us move to Recommendation 1 on accreditation. Before I give the floor to Caitlin to walk us through the proposal, let me make a suggestion on the way how we should deal with the recommendations. If approved, then we will follow that. If not, then we will go line by line from the table that is on the screen.

When we were thinking with the staff what would be the best way how to proceed in a swift manner, and in order not to repeat the conversations we had already on the topics and not to reopen those, let's say, compromised decisions that we made during the preparation of the initial report, I asked staff to see whether there is a way for how to extract from all the proposals that have been submitted during the comment period, as well as reaction of the different groups on those proposals, elements that need further

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discussion or clarification, and the rest to leave to the staff to finetune the recommendation where either no, let's say, new elements have been provided or there is agreement on changes/edits provided by groups during the comment period. And we could concentrate only on those elements that need further clarification or discussion and that have not been discussed previously.

With that, you have also in front of you the five-page document of 16 points that I suggest that we work on during today's meeting and provide sufficient guidance for the staff who would then, based on our conversation, do necessary write-ups and give us the text to approve.

So this is the method I would suggest. Otherwise, we would repeat discussions that we had already, and it would probably not allow us to finalize even one topic per call.

I would seek your approval to that suggested method.

I see Marc's hand is up. Marc Anderson, are you in agreement with that suggestion?

MARC ANDERSON: Thanks, Janis. I think I am in agreement. It took a considerable amount of time to go through the discussion table. So you're right: if we have o go through each of these as a plenary and discuss each of those, it'll take us considerably more time than we have to get through all these.

I just want to understand how staff is going to manage these changes and our ability to look at what changes staff is approving. I think I understand that we'll, based on this second document that staff sent out, discuss just those items and then, following the discussions, staff will propose edits to recommendation that we discussed. Then we'll have a chance to agree or disagree following the staff round of edits.

Do I have that right?

JANIS KARKLINS: Yes, Marc. That's right. But let me call on Caitlin and confirm that understanding.

CAITLIN TUBERGEN: Thank you, Janis. Marc's understanding is correct.

MARC ANDERSON: Okay. Thank you. Yeah, I agree, and I think we can't spend all our time going through the discussion tables in plenary. This approach makes sense. Let's give it a go.

JANIS KARKLINS: Thank you. As I said, it is important that each group does their homework and goes through the proposed edits and voices their agreement or disagreement. That gives staff a good understanding of where groups stand on these proposed changes. If everyone agrees, then changes will go through. If somebody disagrees, then staff will do an analysis on whether this is a new

issue or this is a flaw in our initial recommendation. But, if it will appear that somebody is trying to question the compromise that has been achieved after hours and hours of discussion, then, of course, that compromise will stand and no suggestions would be considered because, ultimately, there is no point in reopening everything we have agreed to in lengthy conversations throughout three face-to-face meetings and 50 phone calls.

With that understanding, let us go to the document that staff prepared for us for our consideration.

Caitlin, would you like to walk us through the document, or will we take it point by point?

CAITLIN TUBERGEN: Thank you, Janis. I think we can go through the document point by point, partly because each issue that we flagged has questions or clarifications that we'd like to get from the team before moving on.

If we'd like to start from the top, the first issue that was flagged, where there were some clarifications asked for by commenters, is the topic of signed assertions. For this topic specifically, several points were provided by the Intellectual Property Constituency on describing how signed assertions could work. In the document that staff prepared, we provided some bullet points of our understanding of what signed assertions are. I'll just give a moment for Berry to show to the staff document so everyone can see those.

Yeah, that first set of bullet points, Berry. Thank you. Those were largely gleaned from comments from the Intellectual Property

Constituency about signed assertions mean, since there was some confusion about what those are and how they different from an identifier credential.

So the question that we have is based on these points. And are there any further elements about signed assertions that require clarification from the group? If so, what are they? Otherwise, can we use these assumptions to draft a more clear recommendation around what signed assertions are?

JANIS KARKLINS: Thank you. I will give 30 seconds to read the text on the screen.

So, any feedback [on] answering the question, are there any further elements or aspects that require clarification? If not, can the staff support team produce the rewrite section of the recommendation for the EPDP team review?

Marc, is your hand up? Or that is then old hand?

MARC ANDERSON: That's a new hand, Janis.

JANIS KARKLINS: Please go ahead.

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MARC ANDERSON:	Thanks. On this one, I thought some of the comments raised some good points on signed assertations. With the way it was written, there's some potential for confusion.
	With that, I think the bullets points that staff have here are on track towards addressing that confusion. So generally I'm saying I support what staff has done here.
	One exception. The last bullet point here says, "The policy recommendation may include examples of what signed assertations made be." So far, so good, but: "These examples to be further worked out in then implementation phase." I think this intends well, but obviously, in implementation, you cannot change the policy recommendations. So the implementation phase obviously is not going to change the policy recommendation. I don't think is actually suggesting that it will.
	I just want to point that out: as written, that bullet point is problematic. I think staff can take that note. Otherwise, I'm supportive of these new bullets points for adding clarifications [and] signed assertations.
JANIS KARKLINS:	Thank you, Marc. Anyone else?
	Then, with exception of the last bullet point, there was some hesitation.
	Can we approve that and ask staff to do a write-up?
	Stephanie, please?

STEPHANIE PERRIN: Thank you. I do apologize. You don't have my comments yet on this particular topic.

I'm still rather concerned about the conflation between the accreditation of the entity and the kinds of assertion that an entity properly makes as being accepted in a category of entity by the accreditation authority and the nature of each request. I understand that there's language in there about this being dependent on the purpose of the request, but we are still heading into this territory of [eliding] the approval of a request and the characteristics of an approved accredited entity, if you follow. I do have language that I'm working on that I think will help. I'm sorry it's coming up today, but life is very busy these days. But it's very important because we need to make a very clear distinction here because it has a very direct impact on the automation section. Thank you.

JANIS KARKLINS: Thank you, Stephanie. Alan G?

ALAN GREENBERG: Thank you very much. My understanding of this is it's not that we are implicitly linking these assertions with the characteristics of who we're accrediting but we're taking the opportunity of the interaction with the accrediting body to get the assertions, to get the commitments. So it's really a matter of convenience to associate these things with a [given] person knowing that they have made certain commitment, not that we're implicitly linking it

with the fact that you are law enforcement or an intellectual property attorney or whatever. There may end up being implicitly a linkage because we need those assertions, but this is a really a matter of convenience of a good place to get it.

JANIS KARKLINS: Thank you. Stephanie, in the report we have a clear statement that the accreditation and submission of the request does not necessarily mean or will not lead to automatic disclosure. Each case will be reviewed case by case. These additional signed assertions would simply help in decision-making. They would point to some additional elements rather than just pure confirmation that the requester is who he says he is.

For instance, if the requester says, "I am X," the identity credentials will confirm that this is Person X. But, if the signed assertion would suggest that Person X possesses Trademark Y, and if the person will be requesting something for a trademark associated with Y, that would be an additional element for the decision-maker but would not lead to automatic disclosure.

Equally, if Person X associated with Trademark Y would ask a question about Trademark Z, then that again would be additional information to the disclosure decision-maker that there might be some phishing going around, not necessarily but maybe.

That's we these signed assertions are more dynamic and additional elements that provide clarity about the identity of the requester. So that's how I see this: the practical example of this recommendation.

HADIA ELMINIAWI: Thank you, Janis. I was basically going to say what you said better than how I would have said it. My question to Stephanie was, how do you see those assertions actually helping automation? Those assertions, as I see them, and as you explained also, Janis, only help the decision-maker, regardless of the method the decision is made with. Thank you.

JANIS KARKLINS: Thank you. Mark Sv?

MARK SVANCAREK: Thanks. What we're trying to do here is perform two checks on the request before it gets to the contracted party. First, the accreditor checks: is this a person who has the right to make such requests? Is this an appropriate request for such a person? Then, having evaluated that, they sign it so that there's this atomic thing that says, "This identity is associated with this appropriate request." Then that goes to the gateway, which is going to do a further sanity check on the thing to make sure that it's well-formed. Then it goes off to the contracted party to be evaluated for whether disclosure should happen or not.

So I agree with Stephanie that this is an important thing for enabling the entire system, not just automation but particularly automation. If it's not clear from the way we've written this that

these are prechecks before the final decision, then we should keep tweaking the language until that becomes clear. Thanks.

JANIS KARKLINS: Thank you. Stephanie, please?

STEPHANIE PERRIN: Thank you very much. Mark has restated, I think, rather clearly my point. The moment we stray into the evaluation of the actual request, we are spoiling the category. This is accreditation—accreditation by the entities that are accrediting companies and individuals and organizations. That all belongs here. But the guidance, with respect to how to format a request, is separate. That's what's being conflated here in my view. If you are a trademark group and you are accrediting your members, then you have a series of questions that you ask and proof that you require before you let someone join your group. Then, you, as an entity, as a trademark group, may require that all of your members, in order to be members in good standing, meet certain standards when formatting a request. But that is separate and almost doesn't need to be dealt with here, in my view. I think that that belongs to the dynamics of the accreditation piece and is an implementation issue that we will deal with when we get to the implementation of entity accreditation because we really need the whole request authorization to be treated quite separately. The first question is, is this an accredited requester? If the answer is yes, then all the rest disappears. Then you look at the request. I don't think that's clear here. I think we're lumping them together. Thank you.

JANIS KARKLINS: Thank you, Stephanie. When do you think you will submit your comments and views on this particular topic?

STEPHANIE PERRIN: Within the next couple of days.

JANIS KARKLINS: Okay. Thank you. Mark Sv, your hand was up.

MARK SVANCAREK: Yes. I'm going to wait for Stephanie's comments. Thanks.

JANIS KARKLINS: Okay. I would like then to suggest the following. Based on positive feedback during the call, and waiting for Stephanie's comments, I would like to ask staff to try and finetune the current language in the recommendation and bring it for final consideration of the team. Maybe, as a matter of method going forward, at the moment we will look through the clean text of the recommendation in its final form, maybe we could use two colors: one for text that has not been changed since the initial recommendation and then the different color for parts have been edited as a result of the public comment period. That will give us a very clear visual perception of changes in the document.

Would that be acceptable? And, Stephanie, if I may ask you to provide those comments a soon as you can. Thank you.

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Let us move now to the next topic: trusted notifiers. Again, Caitlin, if you could kickstart the conversation.

CAITLIN TUBERGEN: Thank you, Janis. Trusted notifiers was an idea that was raised on the public comments. In short, the commenter noted that trusted notifiers would be entities or individuals with recognized subject matter expertise who would undergo additional scrutiny, either at the time they are initially accredited and/or in an ongoing manner to recognize or establish their accuracy and their track record of good faith and compliant use of the SSAD in support of their work monitoring, investigating, and acting against specific use cases of illegal activity and domain abuse.

In response to that comment, staff put together first question. The first is to please describe the benefits or purpose to either the notifier, the contracted party, or the central gateway operator. That's partly because some of the comments we received from the EPDP team is: what is the purpose of this and what is the benefit of this?

In conjunction with that question: Is this concept that might fit into the accreditation recommendation? Or, instead, is it something that could be developed over time based on lessons learned and trust gained and maybe allow for the disclosing controller or contracted party to assign such status to entities that they feel comfortable giving specific privileges to?

JANIS KARKLINS:	Thank you, Caitlin. In the table, we see that the BC and IPC support the concept or agree with the concept. Then we have a number of reservations expressed by other groups.
	I have a number of hands up now. Alan Woods, Volker, Milton, and Alan G.
ALAN WOODS:	Thank you. Our accountants did point out the fact that we disagreed with this, and we disagreed with it on a number of grounds, I suppose. The first was an obvious question that [inaudible] just pointed out to me by one of colleagues was calling then trusted notifiers, number one, is such a misnomer in this. They would be in a way trusted requesters. They're not notifiers at all.
	Number two: This is such a subjective thing. I don't understand. If we're talking about accreditation, why are we talking about accreditation-plus? Accreditation is accreditation, and that's what the SSAD should be based on. It should be based on facts. It should be based on measurable items because you must remember that what is happening at this is that this is going to impose upon people saying, "These are verified facts." Trust is subjective. Trust is not a verifiable fact. Just because one particular party may over time seem to believe that there is more trust in a particular requester and therefore they might treat that differently, that is something that is solely at the risk of the actual controller who is making that decision. I don't think it is the place of the SSAD or the central gateway to impose such a subjective concept such as trust onto that of the actual disclosing parties.

So, even though I see the second point there that staff have come up with, from my point of view, it missed the point that I was trying to make or we were trying to make insofar as we do not believe that trust should be found within the SSAD or within the central gateway. Trust is something that develops outside the central gateway and may be [applied] at the risk of the individual disclosing party and beat on their head if they've misplaced [inaudible]. But to make all contracted parties and all disclosing parties accept that modicum that trust, I think, is increasing the risk, not only on the contracted parties but actually on the central gateway itself.

So, I think, leave accreditation as accreditation is based on facts, and leave the subjective to the individual disclosing parties.

JANIS KARKLINS: Thank you, Alan. Volker, please?

VOLKER GREIMANN: Thank you. I'm not fundamentally opposed to the concept of having trusted requesters, trust modifiers, simply because that's something we're doing already.

However, I think Alan is absolutely right. This should[n't] be on an individual basis. For example, there are companies out there that have agreements with certain parties that make requests or issue reports for abuse. Those parties could be flagged in the SSAD by the disclosing party as a trusted entity, therefore gaining them beneficial, faster access to certain data if they are thus flagged.

Therefore, I would very much support any idea of where such trusted parties could be individually greenlit for better access, sometimes even automated access. But it's the choice of the contracted party make, and the platform should support that.

However, I have deep [conservations] against one party being mandated to be trusted by all because there might be differences in opinions on who is trusted and who is not trustworthy. Also, from past experience, this may vary between contracted parties.

So this should be a voluntary option that should be available and not a mandatory issue. Thank you.

JANIS KARKLINS: Thank you. So your concept of voluntary [accession] to trusted notifiers … Please, others, reflect on that type of approach because we have, clearly, disagreement. Some say yes. Some say no. Then, if we can find something in between as a policy recommendation.

Milton, followed by Alan G, then Franck.

MILTON MUELLER: I think, to the concept of the trusted notifier, it's not a legitimate addition to a discussion of accreditation. I really want to make the point. I think Alan has pretty much spearheaded the reason why we don't want to do this. Volker has emphasized that: that the trusting will come from the disclosing party and, if there is any such thing as a trusted requester, not a notifier, it would be in a completely different part of this policy.

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I want to make the point that this is how we lose time. This is how we end up spending half an hour about something that really is just a no-brainer and is never going to happen because somebody is trying to shoehorn a concept, a policy goal, into a place where it doesn't really fit, but they're thinking, "Why not? Why not try to get our little [gain] here?" rather than having a very direct and honest discussion of it where it belongs. We just can't afford to do this. I would ask the person who proposed this to just withdraw and save us further discussion because, if you want trusted requesters, it doesn't belong here. It clearly doesn't. It's not going to go into the accreditation process. There's no way that can happen. That's all.

JANIS KARKLINS: Thank you, Milton. Alan G, followed by Franck.

ALAN GREENBERG: Thank you very much. Curiously, I agree with Milton that this is not part of accreditation, but it is a really good concept. If this is where it was introduced and we have to move it to a different part of the policy, so be it. But let's not get confused about whether this is a good thing to integrate and whether it fits in accreditation or not. If there was no place in our overall policy for it, this was a good a place for it to be brought up as any. I don't think it's a notifier. I think it's the requester.

But I think this is a really important concept. The best analogy I can get is that probably everyone on this call at some point in their life has called technical service, either on their Internet connection or their computer or whatever. These people who answer these

requests deal with an infinite number of stupid requests—requests which any person should not have made if they knew how to check whether their PC was plugged into the wall or whether the power switch is on on the modem—yet the people who answer these calls deal with questions like that and they pretty much assume that everyone is an imbecile. That kind of service benefits from knowing that this customer actually knows what they're talking about. It's not done during accreditation, during sign-up. It's done based on learning. It's a really important concept to be able to facilitate how one serves request, whether it's an SSAD request or something else. Thank you.

JANIS KARKLINS: Thank you, Alan. Franck?

FRANCK JOURNOUD: Thank you, Janis. I appreciate, I believe it was, Volker, who was [open to that]. I don't want to mischaracterize what you said, Volker. You weren't wholeheartedly embracing it but [saying that] it was an option that may be only for certain [CPEs] and not necessarily for all. The reason why we made this in the accreditation recommendation is, as Alan said, was because thought it was maybe the best place to do it. But, yes, I actually think it could fit in very different recommendations—accreditation, query policy, automation, contracted party authorization. The point is well taken that the reason why we call it trusted "notifier" is because that's a concept that exists.[So, one, it's a focus to understand that that was something like that we're referring to], but, yes, it would be a trusted not notifier but requester.

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The reason why we put it here—but, again, happy to talk about it in five different recommendations if that's going to; I'm not sure that's really going to say us a lot of time—is that such a requester would have additional attributes that would be part of their accreditation because there are clearly going to be different types of accreditation and different types of accreditation bodies. They may have codes of conduct associated with them. They may verify that, yes, indeed, the requester isn't just asserting that they're going to use and store the data this way, but it's verified that they have, I don't know, this level of encryption or these access controls—things like that, etc. You can build a number of attributes—I apologize mentally to Alex Deacon, if he's listening for us, for not necessarily using all the technical terms correctly—of not just request but of a requester into … Yes, they belong they for a different category or a higher-level category of requester, and, as a result, it facilitates the processing of their request and that the disclosure of data … We're not talking about that it's by right and we get 100% disclosure, etc. You still have to meet a number of other conditions, but, yes, for certain requesters and certain kinds of requests, etc., they would be different and, I guess, better, for lack of a better word.

JANIS KARKLINS: Thank you. It seems to me that the concept of trusted requesters does not belong to the accreditation section. I think we could move on, after listening to Mark Sv's and Thomas' comments. But staff maybe can look at the concept of trusted requester and see whether that concept could be inserted in some of the sections that we will be reviewing in the coming calls.

Mark Sv and Thomas?

MARK SVANCAREK: Thanks. I don't understand a lot of the feedback that people are giving on this because it doesn't seem to be aligned with what the actual text is. This is not about a requester asserting that they are more trusted, which is something I'm seeing. This is not about a requester somehow automatically getting access to data. This is saying there could be a second level of accreditation. So you're accredited and you've done things and now you've received additional accreditation, which puts you in a different bucket. That would argue for it being in this section. Systems like this are going to be develop reputation abilities, whether that's based on some machine learning history or whether that's based on post-accreditation by authorities. All of those things are going to be helpful in decision-making. There's nothing in this proposal that says it removes discretion from a contracted party or that this is forcing anything anybody's throat. It's just additional information that could be made available.

So, if you want to stick in this section, I think it makes sense to put it here. If you want to put it somewhere else, that would be fine, too. But some of the comments that have been made just don't line up with what the actual text, at least as written by staff here, of this proposal is. If we're going to say this is how we miss our deadlines, I think not reading the text and then arguing that people have bad intention is probably another way that we miss our deadlines. Thanks.

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JANIS KARKLINS: Thank you, Mark. Thomas, you're the last one.

THOMAS RICKERT: Thanks very much, Janis. I think that, to a certain extent, the previous speakers have been talking past each other. I think one thing should be clear. At least I hope it is clear: disclosure of data can't be based on a hunch that you like somebody or that you trust somebody or somebody else. As we're all interested in evolving the system over time and making it better, it makes perfect sense to have a feedback loop. Maybe that's a feedback that we can agree on and can further be worked on, maybe not now but maybe at some point. If you look at trusted [shops] and other [quality] [here], they also don't work hunch-based but they work based on facts and whether you do your job right or not.

So I think that such a feedback loop, whereby certain requesters, if they do everything right, if they respond timely and all that, can up their scoring, while, if we find patterns of things going wrong with other requesters, we might identify training needs and help people improve. Also, we might be able to find [our role players] and put a marker on them and say, "Okay, you need to be especially cautious with those."

So I think that there is room for reputation basis for requesters, but I would agree with many who said that maybe it's not the ideal point in time to further evolve that. I think that's for later, given the time constraints that we're in.

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JANIS KARKLINS:	Thank you, Thomas. I'll take it a level higher. What purposes does accreditation serve? Accreditation basically serves the purpose of confirming that you are what you say you are and issuing the key that would allow to open the door to SSAD. So that is the meaning of accreditation, let's say, from a very high level.
	How many levels of accreditation do we want to have? One, two, three? I think that one is good enough. The second that we spoke earlier about is just confirming certain additional elements—for instance, that the accredited entity is in a position of X trademark or other important attributes—of some property rights. Whether we need a third level is hard to say. Clearly there is no agreement in the group. Nevertheless, the concept of trusted requesters may be further considered.
	If you would agree, we would not take it up or introduce it in any change of this kind in the accreditation recommendation but staff would consider, based on everything that has been said during this conversation, whether and where that notion could be inserted. We would consider that based on the staff recommendation.
	Alan G, are you in agreement?
ALAN GREENBERG:	Yes, I agree, but I think it's really important that this is not accreditation. It's not something that's granted because of your characteristics, your profession, or what your degrees are. This is something granted by those who have learned that you are trusted, and it can be revoked because you proved you're not

trusted. I really think it must be included somewhere in the policy. We don't where want to be in a position to be told later on that the SSAD—and, for that matter, contracted parties—cannot contribute a level of trust to certain requesters because it wasn't mentioned in the policy. Thank you.

JANIS KARKLINS: Thank you. Then we will proceed as I suggested. Thank you. Let us move now to the next element, and that is the accreditation authority. Here we are asked to clarify a few things. Caitlin, if you could kickstart this conversation.

CAITLIN TUBERGEN: Thank you, Janis. The comments here and the clarifications asked for deal with the definition of accreditation authority and also Points A through D in the initial report.

Based on some of the clarifications and answers given in the comments, once again, staff has extracted what was in the comments based on our understanding of what the EPDP is saying. However, we want to, again, confirm that those clarifications and extractions are correct.

Additionally, one of the questions I was asked deals with the flow of information and specifically when a request would go to a registry instead of a registrar. So we needed some clarity on that particular question.

JANIS KARKLINS: Thank you. I will let the team have one minute to read the text on the screen before opening the floor for any comments you may wish to make.

I think the minute has passed. Any comments?

Marc Anderson, please?

MARC ANDERSON: Thanks, Janis. I had a hard time with these comments. I thought, up above, the bullets that staff did [on] signed assertations were good in helping clarify what was in the initial report. After reading these, I feel the opposite. I feel like this adds confusion rather than clarity.

I'll just run through them. The first bullet point there says the accreditation authority is responsible for verification, issuance, and ongoing management of both the identity credentials and the signed assertations. Okay, but I think the assumption is that they will rely on identity providers, at least in some cases. I think that this bullet point, as written, confuses that point.

The second bullet points talks about that the accreditation authority may outsource to a third party as needed, but I think that is the role of the … There, the second bullet point is talking about identity providers, but it doesn't mention identity providers at all. So I think, as written, this confuses the concept of identity providers and introduces a concepts of outsourcing to third parties without clarifying that what we're talking about here is identity providers, which we've already talked about.

The third bullet point here I read, and to me that really confused the concept of what the central gateway, accreditation authority, and identity providers all need in this context. I guess I came away from reading this feeling like this didn't add clarity and, in fact, made it a little more confusing for me.

Sorry to give that feedback, but that's how I came away from reading these bullet points.

JANIS KARKLINS: No, thank you for giving that feedback. That's important. Mark Sv, please?

MARK SVANCAREK: Thanks. I agree with Mark that these bullet points aren't clearing up anything. For instance, if you just look at the fourth bullet, the flow of request is the requester to the assertion signer to the central gateway to the registrar/registry. Whether the assertion signer is a single entity or whether it's divided between a separate ID provider and a separate accrediting person is equally unclear from this.

So I would have to agree with Marc. The fourth bullet is clearly wrong, and the bullets as a whole don't really make it any more clear to a reader who's not well-versed in this. So we need to take a look at this. Thanks.

JANIS KARKLINS: Thank you. Eleeza, you're next.

ELEEZA AGOPIAN: Thanks, Janis. I wanted to raise another issue in response to Question 4 here. I think one area that ICANN Org submitted comments on that wasn't clear to us from the text is the scope of identity verification. I think it may belong in this section. It would be helpful to understand against what standards the accreditation authority or the identity provider would be expected to verify, for example, an IP's identity, or law enforcement, or any type of requester that's anticipated in this system. It's not really clear from here.

Just as a side note—I'll be sending this team an update about this soon—our team that's working on the cost estimate for your discussion is also facing a challenge in this area to construct an estimate on how much identity verification identification would cost. Is it a 25 cent confirmation of an e-mail address, or is it a more expensive version of that, where you're verifying a particular credential or a trademark, or so and so forth? There can obviously be a wide range there. So I think this is an area that we'd like to discuss with the team more. Thanks.

JANIS KARKLINS: Thank you. Caitlin, any comments from your side, seeing that that proposed clarification adds to confusion?

CAITLIN TUBERGEN: Thank, Janis. In response to the flow question, I'll note that, in the final report, we have the text that says, "The use of identity providers is optional, and the accredited authority is expected to

develop an authentication policy for identity providers if it decides to use identity providers, factoring in the policy recommendations and implementation guidance provided in the final report," noting that Bullet Pint 4 is the simplified version of that flow.

But, if that's incorrect, then, by all means, EPDP team members should speak up.

JANIS KARKLINS: Okay. Marc Anderson, please?

MARC ANDERSON: I think what you just described, Caitlin, is fine. My concern is that the bullet points you're adding for clarity confuse what you just read. I understand this exercise is that we're going through, looking for how to improve the recommendations, but I think these bullet points don't improve it. They confuse it. I think that's my overall point there.

JANIS KARKLINS: Okay. Is there anyone else who would like to speak on the accreditation authority?

In absence of requests, maybe I will ask staff, based on feedback received, to review the text. Probably it seems to me that the initial report formulations are the ones that are favored by the team.

Marc Anderson?

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MARC ANDERSON: I agree with that, Janis. One thing to add, though. Staff did bring up the question of how a determination would be made on requests going to a registry instead of a registrar. I think it was Caitlin who noted—it's the end of Question 5—the EPDP will further consider what these circumstances could be. So I think where we are right now is that the central gateway will send requests to registrars but could send them to registries in certain circumstances. We haven't defined what those certain circumstances would be. So I think that is outstanding work that we need to address.

The other thing I want to point out, which I think is maybe something we need to make sure as a working group we're on the same page on, is dealing with accredited organizations, looking at … Let's see. One, two, three, four, five, six. The sixth/last bullet point here talks about how, under accredited organizations, each user under that organization would have their own log-in credentials tied to that organization's accreditation.

So I guess I just want to ask if that is everyone else's understanding: that an organization would be accredited, but then that organization could have N number of entities or, in this case, employers who have their own individual logging credentials using that accreditation. So I'm not necessarily saying I agree or disagree. I just want to make sure that that is a shared understanding of the working group. Thank you.

JANIS KARKLINS: Thank you, Marc. If my memory serves me well, when we had this conversation in Los Angeles, it was understood that each

organization would develop its own approach or policy. For instance, for a smaller organization, where maybe one or two individuals would do this work, they could easily use the credentials issued to the organization, but, to a bigger organization, they may decide to, first of all, maybe get several accreditations specifically for each of the visions within this organization and then issue log-in credentials for each individual to be able to control who has sent what request. I think we agreed to leave it at the discretion of each organization.

MARC ANDERSON: If that's the case, Janis, then that's in conflict with what this bullet points says, which says each individual person/SSAD requester should have their own accreditation.

JANIS KARKLINS: Yeah, but we have two types of accreditations. We have accreditation of individuals and accreditation of organizations.

MARC ANDERSON: I'm not advocating one way or the other. I'm just saying I don't think we're clear on this one.

JANIS KARKLINS: Okay. I have two further hands up. Caitlin and Alan G?

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CAITLIN TUBERGEN: Thank you, Janis. This isn't a comment in response to Marc's intervention but rather an overarching comment that, in this document—apologies that I didn't make this clear from the outset—when we have bullet points with clarifications or staff's understanding of the comments provided and clarifications of those comments, these are just to get the group level-set and make sure that we are clear on what the group's intent was behind certain recommendations, particularly when commenters were confused. This doesn't represent what would ultimately be included as text in the updated recommendation.

That said, as we're doing now, if there are disagreements about any of the assumptions that staff is making or clarifications that we're drawing from the comments, please do speak up and we can correct those before we provide updated language on the recommendation. Thank you.

JANIS KARKLINS: Thank you, Caitlin. Alan G?

ALAN GREENBERG: Thank you very much. I think the first phrase is redundant because you are a requester, we already said you must be accredited. Therefore, if you're an individual requester, you must have been accredited. So I think that part is redundant.

My recollection of what we decided is identical to yours, but it strikes me, while we're having this discussion, that, if an organization has a single set of credentials for multiple people, we really need … If we want to attribute a particular request to a

person—ultimately we may if there has been a violation or if the data subject is questioning it—we really need to be able to identify who the person is and not just rely on the record-keeping ability of the organization.

So probably what we need for group accreditations is a field which must be filled in to say, "What is your ID (or whatever) within your company, within your accreditation?" so the SSAD itself can attribute any request to a specific individual, even if they don't have their own private accreditation. So we probably need to make a change like that somewhere, and I don't know where it is. But I guess it says that, if an organization has accreditation for a group, they must provide a unique identifier to each of the users which can pass it on to the SSAD. It's not verified by the SSAD, but it's a track record. It's a breadcrumb. Thankyou.

JANIS KARKLINS: Thanks. Can we then land on a common understanding? If the requester is an individual who goes through the accreditation process, then we have the distinct log-in credentials to that individual. But, if there is an organization, then, during the accreditation, the organization is given the top-level credentials or log-in. Then they need to issue secondary-level credentials to each individuals using the SSAD. It's like a domain name system. We have the top level, which is for organizations, and then the secondary level, which is for each individual. Can we think in those terms and clarify the recommendation with that specific understanding?

Alan, your hand is up. Alan Greenberg?

ALAN GREENBERG: Sorry. That was an old hand.

JANIS KARKLINS: Okay. So let's give it a try. Another is where goes Question #5 in relation to where a request is sent: either to a registrar or a registry.

Any views? Any guidance to staff?

Brian?

BRIAN KING: Thanks, Janis. I think, if I remember correctly, we did decide that, as a default, if it wasn't specified, the request would go to the registrar. I think we also said that, if the requester explicitly wanted to, then the request in that case could go to the registry in the alternative. So I think that was where we landed on that. Folks can tell me if I got that wrong. Thanks.

JANIS KARKLINS: Okay. Mark Sv?

MARK SVANCAREK: Thanks. Just adding to what Brian said, I think there's an additional check if the requester needs to go to the registry, and the registry actually holds the data because, right now, some registries are not holding any data. So the gateway would need to

make sure that such requests are not erroneously routed to them because that would be dumb. Thanks.

JANIS KARKLINS: Thank you. Alan Woods?

ALAN WOODS: Thank you. I suppose I'm just going to agree with what Stephanie just said in the chat here. I'm not quite sure how this is an accreditation issue. Specifically, we need to be exceptionally careful here because we cannot give even the inkling that we're allowing requesters to forum-shop as to whom they think they might have a better chance of getting the data from. This is not a question of whether they're good actors or bad actors. It's a question, again, of registrants' rights, as opposed to anything else. We need to make sure that there is a stated process that needs to be followed that is treating all registrants and their data in a similar manner. It can't just be a matter of what the requester wants to do. If the requester wants to go directly to a registry or a registrar, well, then they can do that. But, if they're going to the SSAD, we should have a very, very stated escalation path. This is one of the things that the registries are putting specifically into our comments, which are coming soon—I promise—and something we've said anyway on the record many times.

JANIS KARKLINS: Okay. Volker?

VOLKER GREIMANN: Just a question to the registries in the room. How many requests do you get usually in comparison to how many requests we get? I think the current practice is already that the registrar is the default address for access requests to data, and the registry only gets asked rarely. So that might also be an indication of how this might be practiced in the future as well. Therefore, the current practice might lead to the recognition that registries don't even have dedicated teams for that, whereas registrars do. Therefore, it might require a lot of ramping up on the side of registries if they were expected to [promote] [inaudible] in the future as well.

JANIS KARKLINS: Thank you, Volker. Brian?

BRIAN KING: Thanks, Janis. I would make a constructive suggestion here. It seems that this question does belong in the request requirement section. So maybe that's a good place for us to tackle it.

To Alan's point about registrants' rights, which is an important one, and not being able to forum-shop, the best way to address that would be to have the request decision-making done centrally. In that case, there would be no opportunity for forum shopping. Thanks.

JANIS KARKLINS: Okay. I think that, as far as I understand, if the information flow is determined, the requester, through the central gateway or requester's request through the central gateway, goes to the

registrar as a default. There is no window-shopping possible, but then the question for clarification is, if, for instance, a registrar has gone out of business, what do we do in that circumstance if there is no more registrar who initially made that registration?

Alan Woods?

ALAN WOODS: Thank you, Janis. I suppose I just want to very briefly say this, just based on what Brian just said there. We have done many, many months of discussion on this, and we all came to an agreement that the hybrid mode was actually, based on legal advice, based on everything, best for ensuring A) yes, the risk to the contracted parties and to the SSAD was minimized, but also it was, as a [core], the rights of the registrant in this: that we would not be, in a way, forcing a breach of their rights and that the hybrid model was the best way to ensure those rights.

So I find it a difficult pill to swallow: to hear that it would appear that there is some sort of pushback against the agreed-to hybrid model. That is what we had agreed to. I think it's coming to a point now where we really need a clarification as to where the groups are standing here because, if they're not supporting this, I think it needs to be said right now because, to be perfectly honest, I found that remark just a little bit disingenuous based on the agreements that we've had to date. So I just think there's a need for some clarity on where people are standing there.

JANIS KARKLINS: I'm not sure that I understood your … I'm just looking at what staff is asking [for] specific guidance [on]. My apologies I misunderstood and said something I shouldn't have said.

ALAN WOODS: Sorry, Janis. That was not aimed at you. That was aimed at Brian King's intervention, not at you. Sorry. Apologies.

JANIS KARKLINS: Oh, okay. Alan G, please?

ALAN GREENBERG: Thank you very much. The term "forum shopping" here has been used in a very negative way. As Margie pointed out, we do have bad actors, and there will be people who will not respond in a timely fashion. Yes, eventually Compliance may take some action against them, but, in the interim, there may be a dearth of data available when the data is in the system. But we simply won't ask the person who has it. So I don't think forum shopping is necessarily a negative thing. There may well be very valid reasons for doing it. Clearly, if registrars are geared up to respond, and registries are not, it's not to a requester's benefit to go to the organization that's not geared up to respond. But that may not be the reason they're trying to go that organization. Thank you.

JANIS KARKLINS: I think that forum shopping is possible if there is no SSAD. If there is SSAD, then there is a logic and a clearly defined procedure on

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how the request received by the central gateway is channeled to whom. So there is no possibility of shopping. So the only question is whether the registrar who made the registration is in possession of the data and can make the decision on data disclosure or no disclosure. That's the only question here.

Let us take Mark Sv and James. Hopefully we will be able to get to the next point.

MARK SVANCAREK: Thanks. I really didn't understand Alan Woods' intervention. It is true that we got some legal advice. I don't think it ruled out options other than the centralized model. So I don't think we were forced down this path. We went down this path because there were certain assurances made that there'd be an evolution model, and support for this model hinges on that. If it turns out we don't have an evolution mechanism, then all the agreements would fall through.

Regarding the rights of the data subject, I think that those are defined in the regulation. If we're being lawful, then the rights are being protected.

So I just don't feel like that was a productive addition to the conversation. Of course, the data subject's rights will be protected because we're going to do something that's lawful. I don't think we've got any legal advice that says that either of these models— a centralized model or a hybrid model—would be less lawful than the other if implemented correctly. Thanks.

JANIS KARKLINS: Thank you. James?

JAMES GALVIN: Hi. Thanks. Trying to keep up with the conversation here. I think generally we need to clarify what the process is. I think it's correct to say to start with the registrar. I think it's correct that there are certain scenarios where that then moves from the registrar to the registry and that some of that can happen in parallel. I think that the forum shopping is a given because registries and registrars will also operate their own disclosure request framework outside of SSAD. So there's going to be element of forum shopping there was well if someone wanted to bypass SSAD for some reason.

I think we need to be clear, when we're going to start somewhere and then go somewhere else with a request, on what avenues have been tried and exhausted before we do that programmatically. I'm fine with starting with a registrar and then moving to the registry. I just think we need to define that handoff. Thanks.

JANIS KARKLINS: Thank you. Margie?

MARGIE MILAM: Hi. I just wanted to weigh in on some of the comments that I made in the chat. I don't know that the rest of the EPDP is really close to how difficult some of the requests are today. If you take a look at, for example, the Interisle study that was published last week—I don't know if it's been shared on the list, but I'd be happy to share

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it—there's a lot of variation in how things are implemented in registrars that don't comply, even with today's requirements. So that's why I think the approach that we've suggested, where it's a default to the registrar—that makes sense—but the ability to go the registries when there's a problem, is really the right one. That way, we can deal with pickups in the system and delays because of compliance and all of that. So I think what we're talking about makes sense.

JANIS KARKLINS: Okay. Ultimately, we're talking about accreditation authority, not that much on how information flows, at least not in this section. This [is just saying to] wait to try and clarify some things that may be useful to the staff to edit that part of the recommendation. I hope that staff has enough guidance for clarification of the proposed section of Recommendation 1.

We have a number of further points, and we're almost two hours in session. My suggestion would be to break for about five to seven minutes and then come back and continue working until 5:00 P.M. UTC, hoping that we would exhaust Recommendation 1 questions as put forward by staff.

Would that be okay?

If you would prefer to refresh your memory during those five to seven minutes, please look at the text which was circulated by e-mail to all of you.

Thank you. Terri, we're convening at :55. If you would give us guidance, do we stay or we disconnect and then we come back? How do you want to proceed?

TERRI AGEW: Thank you, Janis. Everybody can stay on. We can just put the recording—or log off and log back on; it's going to be exact same link—on hold.

JANIS KARKLINS: Yes, please put the recording on hold until :55.

Welcome back. Let us know take another question related to reaccreditation. I think the question is one the time of reaccreditation. What would be the reasonable time period to provide as a possible reference? The concern expressed seems to be related to what happens if things change in five-year period, as is suggested in the report.

Any reactions? Any comments?

Alan?

ALAN WOODS: Thank you. When we were putting in our comments related to the five years, it probably came across a bit stronger than was necessary. I think, if we are going to state a period of five years, or we are going to state a specific period, I just need to say that we really need to figure out why five years is considered to be appropriate. I actually do like the suggestion of doing the annual

review and ensuring an annual reminder saying, "If there is any change in circumstance that is material to your accreditation, you need to update it." I think this is getting into the [inaudible] processes that we need in order to set these limits because, again, the first question we ask is, "Well, why did you believe five years was an acceptable period?" So, once we're having those conversations and figuring out those interim—what's the word I'm looking for?—controls that can be put in place, I think we're getting closer to that being. So I do like this additional concept, and I think we can develop it more.

JANIS KARKLINS: Thank you. The thing is, we need to weight several issues, one being the cost accreditation, which entails a cost. So we need to understand what is the best ratio—cost-benefit ration, in this case—as well.

Marc Anderson, followed by Alan G.

MARC ANDERSON: Thanks, Janis. Just to add a little bit to what Alan said, I think this one is a little tricky because I don't think we all understand exactly what goes into accreditation in the first place. In the previous discussion, I think we also heard from Eleeza that staff, in doing their cost estimate, is also unclear on exactly what the expectation is that would go into accreditation.

So I think the note is fair. A lot can change in five years, so just saying nothing will happen after accreditation occurs for five years I think is not reasonable or realistic. I think it's really difficult to

come up with guidance until we have a better idea of what exactly goes into the accreditation process. If it's a more lightweight accreditation process, then maybe more frequent reaccreditation would be appropriate, but if it's a very involved accreditation process, then it should be longer.

So I think that's the real challenge we're facing on this one. That's the perspective I want to add onto that.

JANIS KARKLINS: Thank you. I think, in every case, whatever number we'll come up with will be arbitrary. As I said, this is just our best assumption on what would the right thing to do. As I said, each accreditation involves additional costs, and those who apply for accreditation will need to [bury] if not all then a significant part of that cost. Therefore, we need to be cognizant of that.

When it comes to questions on how accreditation will be done, I think that, in our initial report, guidance is provided. As the use of identity providers is optional, the accreditation authority is expected to develop an authentication policy for identity providers if it decides to use identity providers, factoring in the policy recommendations and implementation guidance provided by the final report, as well as further guidance that the IRT may provide in this implementation phase.

Again, what is accreditation? What is accreditation that is paperwork? So you need to prove who you are. If you need to prove, then you need to provide some paperwork. What that is, for the moment, we do not know.

Let me take further calls. Alan G, Volker, and Milton.

ALAN GREENBERG: Thank you very much. I think the term "reaccreditation" here is overkill. Clearly we need an affirmation periodically that you still possess the credentials that you claimed that you do—that you're still employed by then employer, that you're still a practitioner in this area. The answer to that may trigger reaccreditation, but, in general, I don't think you should necessarily have to go through the full process of providing documentation and whatever accreditation involves to continue being [inaudible] So periodically affirmation-checking yes, but reaccreditation automatically I don't think is reasonable.

Another rationale for that is, if we said, "Every five years, everyone has to be reaccredited," there's going to be a huge bump, a huge burst, of accreditation at the beginning, and, if, suddenly, five years later whoever is doing the accreditation has to ramp up to reaccredit everyone, I don't think there's a need for it nor is it a reasonable burden to put on the accreditation agencies. Thank you.

JANIS KARKLINS: Thank you. Volker?

VOLKER GREIMANN: I'm a bit in the same vein here. I don't think we need to reinvent the wheel. ICANN has successfully implemented policies regarding accreditation and reverification and certification of its

current contracted parties. Whatever we build in implementation can be modeled on that. That's ultimately what this is: an implementation issue. I'm very happy to relegate that to the IRT. Thank you.

JANIS KARKLINS: Thank you. Milton?

MILTON MUELLER: I'm happy to report that I agree with Alan Greenberg that what we're talking about is not reaccreditation. We're talking about renewal or affirmation of the accuracy of your accreditation. Indeed, in our comments we drew a comparison between the WHOIS accuracy notices that get sent out annually to domain name registrants that tell you, upon the pain of losing your domain name, you must affirm that your information is accurate. I think accredited requesters could be asked to do something similar. Upon pain of losing their accreditation, they would verify that their information is correct and up to date. That would not be an expense. It would not be reaccreditation. It would be something that happened annually. It's simply a check on the accuracy and validity of their accreditation. Thank you.

JANIS KARKLINS: Thank you. Can we land on that idea and understanding?

Steve?

STEVE DELBIANCO: Thank you, Janis. I wanted to rely upon the experience that the registrars have with the registrar accreditation agreement term of that agreement—a reaffirmation of certain information, as Sarah put in the chat—and the idea that one's accreditation could be challenged at any time if there was evidence that they violated the terms of accreditation through a complaints process. If the registrars have been able to evolve that system and ICANN Compliance can work it, we ought to inherit and learn from that as much as we can. I do think that Milton and Alan have said reasonably things about it, so there should be no surprise here.

JANIS KARKLINS: Thank you. Brian?

BRIAN KING: Thanks, Janis. I support that approach as well. I think Milton put it very well. Contracted parties, for example, are required to send a self-certification annually to ICANN with their information that's up to date. Sarah mentioned in the chat that, if that information changes, there's requirements to, even before that certification might be required, make that update proactively. I think those are all reasonable types of requirements for an accreditation as well. Thanks.

JANIS KARKLINS: Thank you. I think we have an understanding of what is suggested by the staff. This annual confirmation of information is something to continue. So the reaccreditation as such would not take place in that period of time, except if there is a challenge in case of

misconduct of any kind which requires withdrawal of accreditation and then reaccreditation after remedy. So I think that staff has enough material to work on to finetune that part of Recommendation 1.

Am I right, Caitlin?

CAITLIN TUBERGEN: Yes. Thank you, Janis.

JANIS KARKLINS: Okay. You can go ahead with the introduction of the next issue.

CAITLIN TUBERGEN: Thank you, Janis. With respect to this category—requirements for the accreditation authority—I believe Eleeza, our ICANN Org liaison, had raised the concern about identity credentials and the role of the accreditation authority and the requirements based on that earlier in this conversation.

In response to that concern, within the discussion table, many of the EPDP team members noted that some of these questions are really implementation questions. We just wanted to confirm if there are any further details or aspects that might require clarification before we incorporate what the commenter suggested here regarding what should be reserved for implementation.

JANIS KARKLINS: Thank you. Any comments?

Marc Anderson, please?

MARC ANDERSON: Thanks. I'm struggling a little bit. Do we need to go to the table to see what the commenter suggested? I guess this is out of context for me, so I don't know how to respond intelligently to this.

JANIS KARKLINS: Staff is [pulling it up] now.

BERRY COBB: Give me a second. I'm still trying to find it in the discussion table.

JANIS KARKLINS: Yeah, we're giving you a second.

BERRY COBB: This should be here in Section [R] of the table.

JANIS KARKLINS: So now we have a reference to the concern. I will give a minute to read.

Volker, please?

VOLKER GREIMANN: It's our position this is mainly an implementation issue. However, looking at the concern, this is exactly what the accreditation is partially there for: freeing up the contracted parties from the necessity of verifying who the requester actually is. So, naturally,

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this is something that the accrediting authority has to figure out on its own and create policies for, but we don't think we should be overly prescriptive on how they do that. As long as it's done in a way that we can trust, I think that's fine, but that's very much an implementation detail.

JANIS KARKLINS: Thank you. Marc Anderson, please?

MARC ANDERSON: Thanks, Janis. Thanks, Berry, for tracking this section down. Very helpful.

I generally agree with Volker. I think this ultimately an implementation question or, I guess, a problem to worked out in implementation. It does highlight the point I made about reaccreditation. Without knowing the answer to this, it's hard to answer the question of what the appropriate reaccreditation timeframe is.

I think, in general, my expectation is that the accreditation authority would validate as much information as they can. Presumably, some types of requesters … This gives the example of, are they expected to verify that an individual with an e-mail address is who they say they are? Or would you go beyond that? I think, in general, the accreditation authority is expected to verify as much information as they can about the requester. The more information they're able to verify about the requester, the more helpful it would be to the disclosing entity in determining if they can disclose the information or not. As a requester, I may decide

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to only provide my e-mail address. That e-mail address may be verified, but that doesn't provide a whole lot of confidence to the disclosing entity.

So I think the—geez, I feel like I'm getting longwinded here—long answer is that the amount of information to be verified depends a lot on the type of requester. The more information that can be verified and provided as verified to the disclosing entity, the more likely you are to get the information disclosed to you.

I don't know if that helps or not, but that's my view on this one.

JANIS KARKLINS: Thank you, Marc. If we agree that this is purely an implementation issue, we could maybe refer to ICANN's rich experience in accreditation of registries and registrars. [I] would suggest that that experience should be used in defining the accreditation parameters for SSAD users.

Daniel, are you in agreement?

DANIEL HALLORAN: Thanks, Janis. Thanks, everyone who has commented on this. I think, at least of our concern, yes, it's true there's a lot to be worked out in implementation in terms of detail around this, but I heard, like Volker said, it has to be done in a way we can trust. I heard Marc say to verify everything we can. We can verify you want us to verify. We could verify DNA checks and passport checks. We could check references. We could interview people like we're doing a security clearance of something like that. That's

at the extreme end, which I don't think anybody wants. Or, at the other extreme end, we could just check that an e-mail address works, but in that case we're going to get mickeymouse@hotmail.com requesting access to data. We're going to send an e-mail verification to mickeymouse@hotmail.com, and we'll get back a [clip]. "Yeah, that's Mickey Mouse." And, from now on, Mickey Mouse is going to be able to go around saying he's an ICANN-accredited data requester. But that's probably not the kind of trust we're looking for.

So we anticipate there'll be fights about this in implementation. We don't want an impasse on implementation where there'll be one camp saying, "Let's have quick, cheap, easy verification. Let's just check an e-mail address," and then we'll have other people saying, "No, no. We need to trust these. We need to have notaries and look at passports and make sure to look at bar credentials and stuff." So we're trying to head off an implementation impasse here. [We're] agreed it can't be all the detail but just direction from the policy on what sort of verification is envisioned here. Thank you.

JANIS KARKLINS: Thank you. Any reaction to Daniel's plea?

Volker?

VOLKER GREIMANN: Again, I don't think we need to reinvent the wheel here. We can just look at what ICANN requires contracted parties to provide on

accreditation. That does contain certain amounts of identity verification as well. It might not delve into the same depths of checks with background checks being conducted on the officers of the entity or something like that. But the processes for verifying someone hopeful of being accredited are already in existence with ICANN processes. Therefore, I think the implementation can be done very quickly be relying on such existing processes as well.

JANIS KARKLINS: Thank you. Marc Anderson?

MARC ANDERSON: Thanks. I hear what Dan is saying, for sure. I think this is likely to be a challenge in implementation. Having been on a few IRTs, the more we can do to make that process smoother and less painful, the better.

I'm struggling, off the top of my head, though, to provide ideas or suggestions here that will help. So maybe that's a question we can give a little bit more time for people to mull over and consider if there's more implementation guidance we can provide here that would help implementation. I think that's a valid ask. Maybe we should attempt to try and do that offline.

We've talked a lot about what we consider the three largest groups of requester types: cybersecurity researchers, intellectual property requesters, and law enforcement requesters. My expectation is that, for each of those groups, there'll be specific accreditation or entity-validation-type steps that will be specific to

each of those groups. I think that's the idea behind the identity provider recommendations.

So maybe, while we're considering additional implementation guidance, those groups could consider what types of specific validation they think would be appropriate for those groups. Hopefully that's helpful.

JANIS KARKLINS: Thank you. Franck?

FRANCK JOURNOUD: Sorry, Janis. I was struggling to find the unmute button. The comment that the IPC made in the table about this Subsection J Recommendation 1 I think is being overlooked. I'm not quire sure actually why. It's important to understand that this is … It gives me the impression that we're discussing something as if we didn't have the benefit of the initial report. A lot of this is already addressed in the initial report.

To the extent that looking at the text of, in particular, Subsection J, we need to supplement that, either in the policy or, I think, maybe more appropriately, in the implementation guidance. But it feels like we're reinventing the wheel here, discussing as if we hadn't already drafted this section, Subsection J.

JANIS KARKLINS: Thank you. I still believe that we should, in a policy recommendation, suggest that the process of accreditation should

be designed based on ICANN's existing processes and experience in the organization. That is based on common sense. Of course, verification of e-mail is maybe a nonstarter, but verification that an organization works in a certain area based on provided documentation? Again, I would know how that would be done in the [inaudible] system [through] the registration document that confirms the identity of the organization or the registration number. So then it's official—the name, the contact person. So all of that is common-sense requirements that are easy to fill. There should be a form to fill, and then it goes verification, and then credential are issued. Nothing too expensive and too much. $3,500, of course, is out of the question, but a simplified procedure certainly could be established based on the existing processes within ICANN.

Let me suggest that staff, based on this conversation, tries to do a write-up, finetuning this part of the recommendation, and we will examine once we have it.

Let me now go to the revocation policy. Caitlin, may I call on you?

CAITLIN TUBERGEN: Thank you, Janis. To jog everyone's memory, there is a provision in the recommendation about revocation of accreditation. One of the comments that we received is about having an appeals mechanism if an accreditation is revoked. Some of the other comments note that, if there is a revocation or an appeals procedure, access to the SSAD should be suspended while the appeal is ongoing, and any sort of decisions must be transparent. We wanted to know if there are any concerns with adding this to

the recommendation based on the comments that we received on this.

JANIS KARKLINS: Thank you, Caitlin. Any concerns?

Marc Anderson, please?

MARC ANDERSON: No concerns. I think, as a general comment, when there are decisions like this made, there would be an appeal. Or there should be some kind of mechanism for recourse. So I think that applies here, certainly. So—

JANIS KARKLINS: Marc, we don't hear you well.

MARC ANDERSON: Sorry, I'll speak up.

JANIS KARKLINS: Yeah. Now it's much better.

MARC ANDERSON: So not a concern. I agree with this. I raised my hand because I want to say that, in general, where there is a decision made where it impacts somebody, there should be some kind of recourse, such

as an appeals mechanism. So I think, in general, I'm supportive of this as a principle.

JANIS KARKLINS: Thank you. Okay, no further requests. Let us move to the next one: code of conduct reference. Caitlin, please?

CAITLIN TUBERGEN: Thank you, Janis. As you'll remember in Point 2, which is cited here, there is a reference to a code of conduct and some minimum points that need to be mentioned there. However, in the comments we received, there were concerns that more information is needed to make clear what is meant by code of conduct, but none of the commenters provided any additional guidance as to how we would provide more detail there. So we need some insight from the EPDP team about what this means and how to clarify this.

JANIS KARKLINS: Okay. Can we get on the screen the table to see the concern?

Stephanie, please?

STEPHANIE PERRIN: Apologies if I'm just the only one who has problems with this, but it looks like, from the comments, that others do. This is one of the conflations that I was talking about. The accreditation authority can look for various things, but it's not clear to me that a code of conduct would be set at the level of the accreditation authority that

would prescribe all of the behaviors associated with filing requests. That might happen at other levels, including at the contracted party level. So I realize that some parties here want this centralized and that some parties believe that the accreditation authority will be administered by ICANN in much the same way that administers GDD, but others of us don't necessary share that belief. So I think that this is too prescriptive as to Article 40 of the GDPR and who's going to set this thing forward. I don't think we ever agreed to that, although I may have slept through it. Thank you.

JANIS KARKLINS: Okay. I think, For my understanding, can we get the initial report—that part where this refers to—to see what we're talking about? Not just comments but what is in the initial report.

CAITLIN TUBERGEN: Janis?

BERRY COBB: [inaudible]. What I've highlighted here is from the report.

JANIS KARKLINS: But in a broader context because, for the moment, I'm a little bit lost myself.

BERRY COBB: Give me a minute.

JANIS KARKLINS: Yes. Thank you. For those who are not lost, we can continue the conversation. Hadia and then Alan Woods.

HADIA ELMINIAWI: Hi. I just wanted to respond to Stephanie. My understanding is not that other parties like the contracted parties will not set a code of conduct. They would set a code of conduct as well. The accreditation authority only defines a baseline, but that does not mean that other parties would not do the same. That's my understanding. Thank you.

JANIS KARKLINS: Thank you. Alan Woods?

ALAN WOODS: Thank you. I must say, when I read this, I was a bit surprised. I don't understand where the conflation of Article 40 did come to this. I mean, we never made any reference to Article 40.

                        Thank you very much, Berry, for putting this up on the screen. It's very helpful to see this. I think what we're saying is that these are the expectations and a code of conduct on what should be provided by a requester in order to make a valid request under the SSAD. These are the elements that are required by data protection law. I don't think there's any question at all on that we're talking about creating a code of conduct because that's not

what the code of conducts are about Article 40 [inaudible] SSAD [inaudible] different point.

What I would also like to point out, especially in the second half of the query that was put [out], where they were talking about whether or not the accreditation authority is the authority on data protection, that I think we need to be very clear, in even response to this comment, that the accreditation authority is not going to be the authority on data protection on this. Again, this is the point of the hybrid model as well: when it comes to a question of what is or what is not required in the review of that disclosure agreement, that must be up to the controller. The controller is making that decision. The accreditation authority is not supposed to be making substantive calls on the application of data protection at all. So I think we just need to be very clear on that. Thank you.

JANIS KARKLINS: Thank you, Alan. Mark Sv?

MARK SVANCAREK: Thanks. I actually disagree with Alan on this. It's true that we've never talked about Article 40, or least not for two years. I think two years we talked about it for, like, one minute. At the moment that the requester gets control of the data, they are a controller. What is says in Article 40 is that associations and other bodies representing categories of controllers or processors may prepare codes of conduct for the purposes of … And then there's a list of, I don't know, A through K things. It does seem like it would be appropriate for accreditors who may represent associations or

similar bodies to create codes of conduct that are compatible with, or at the very least, compliant with/based on Article 40. That seems like it would make perfect sense.

So the question, as it was posted … Is this, based on Article 40? No, it's not. We never talked about Article 40. But, if the direction that we went in when developing codes of conduct was not compatible with Article 40, that would be a big miss, I think. So I understand the comment that was raised but also maybe some of the criticism that was put in opposition to it. Thanks.

JANIS KARKLINS: Thank you. Alan Woods?

ALAN WOODS: Thank you. To redirect correctly on that, I just put that in the chat. I see where you're coming from, Mark, and I understand that a code of conduct that encompasses the SSAD is an interesting concept, but the code of conduct we would be talking about is a code of conduct for the entirety of the ICANN sphere, of which the SSAD could be one aspect of. I think we need to be very clear that what we're talking about here is a code of conduct for the accreditation authority itself—i.e., what are those things that we would require. I think perhaps it's another one of those small-P-large-P-type conflations that are unfortunate between terms that we use and terms that are used within the legislation. [We] want to talk about something a bit more like a term of use or something like that—well, no, because that's already in there. But it's something specifically for the accreditation authority, not a code of

conduct under Article 40. I think that's probably not a good road to be going down.

But I agree, as a wider code of conduct discussion over the next, God knows, five to ten years, I think the SSAD would definitely be a chapter in that.

BERRY COBB: Janis, you may be on mute.

JANIS KARKLINS: Sorry. I was on mute, yes. Sorry. What about if we simply delete the code of conduct and refer to the established sets of rules that contribute to proper application of data protection law within SSAD? That clarifies what we're talking about here: that the accreditation authority should ensure that the SSAD itself is compliant with GDPR rules. Can we maybe go that way?

Alan Greenberg?

ALAN GREENBERG: Thank you. I just wanted to point out that there was a reference saying this is not the GPDR code of conduct but that we have a footnote that does point to a European Data Protection Board guidelines on code of conducts. So there is a linkage to the GDPR code of conduct here, whether we meant it or not. Thank you.

JANIS KARKLINS: Yeah. The concept here, as I understand, is that accreditation within SSAD should be following the rules of data protection, and that would be the accreditation authority that defines those rules.

Marc Anderson?

MARC ANDERSON: Thanks, Janis. I do not like your proposed changes here. I'd prefer the existing language in the current initial report to these changes. So I would not support these edits in here.

JANIS KARKLINS: Okay. I'm not insisting. I'm just trying to see what would be the way forward. So please delete what I suggested.

Brian, please?

BRIAN KING: Thanks, Janis. I was going to go along with that. Maybe we should talk about it then if that's not preferable to the registries. I share some concerns with Alan that what we're talking about here is not a GDPR (capital C) code of (capital C) conduct. So maybe we need some more discussion on that.

JANIS KARKLINS: Marc Anderson, please?

MARC ANDERSON: Thanks, Janis. I do agree that what we're not talking about is a capital-P Article 40 GDPR code of conduct. Just to be clear, I absolutely agree on that point. I don't think this is what we were

talking about here. So maybe that as a clarification would be useful.

I do recall, at our L.A. face-to-face, we had that exact conversation, and this is the results of that conversation. But maybe a clarification that is not the same as an Article 40 code of conduct would help.

JANIS KARKLINS: But, in the agreement, what we are trying to clarify here is that these set of rules apply to proper application of data protection laws within the accreditation process. So we are talking about accreditation of individuals. That means that these individuals will share, with identity providers or accreditation authorities, private data. These data should be treated according to existing data protection laws.

Is our understanding correct here? This is what we're trying to address.

Marc Anderson?

MARC ANDERSON: No.

JANIS KARKLINS: No? Okay.

MARC ANDERSON: This entire exercise, like everything we do, is under the predication that we'll comply with existing data protection laws, right? This is not what we're trying to do here. We're trying to [inaudible] a code of conduct that would be understandable to anybody wanting to understand what the system is and how it works. I think that code of conduct should comply or must comply with existing data protection laws. But I don't read this at all as trying to define a baseline set of rules that comply with existing data protection laws. That's not the end goal. That's an attribute of what we're doing here. So I read that as muddying things, not clarifying things.

JANIS KARKLINS: Okay. So I think we are a little bit lost here. Since we have 20 minutes, may I suggest that, based on what we discussed, staff will provide additional clarification and we would come back to this point? I think we are lost on the substance itself. At least I am lost on the substance itself [on] what we are trying to say with this Subpoint I in an initial recommendation. Maybe that will help us going forward.

Brian, your hand is up.

BRIAN KING: Thanks, Janis. I think we're all getting a little lost. I would be fully in favor of tossing out the life raft to staff to help us. Thanks.

JANIS KARKLINS: Thank you. So, staff, you have your marching orders on this one. We're lost. Maybe you can think of what is the best way forward in the context. Maybe you can even listen back to the recording of our Los Angeles meeting when this was discussed and, based on that conversation, try to clarify what we're trying to achieve here.

Marc, please?

MARC ANDERSON: Thanks. I agree with drawing a line on this and moving on. I just want to point that what's there now says "define a set of rule that established a set of rules that complies with the existing data protection laws to contribute to proper application of data protection laws." This is circular. So maybe we're too hours and forty minutes in, but these edits are off-track. I think it's probably time to move on from this one.

JANIS KARKLINS: Yes. Okay. We'll come back after the staff clarification. Now, with 9, Caitlin, please?

CAITLIN TUBERGEN: Thank you, Janis. As you can see from Berry's highlights, the next topic that we received comments on was a baseline application procedure and the accompanying requirements for all applications.

Based on some of the clarifications that we've received in the discussions table, it seems to be the expectation that the definition

of eligibility requirements will be reviewed and revised over time with learnings from the accreditation process. There should be a clear timeline for the accreditation process and response. Ultimately, the accreditation authority will be responsible for developing the application procedure and any accompanying requirements in alignment with the policy recommendations and implementation guidance. But we want to make sure that there isn't anything else missing that may require clarification with respect to the application procedure.

JANIS KARKLINS: Thank you. Any reaction?

Marc Anderson, please?

MARC ANDERSON: Thanks, Janis. I think the second and third bullet points make sense. The first bullet point … I think it makes sense that they'll be reviewed and revised over time with learnings from the accreditation process. I think this is common sense.

When we talk about the definition of eligibility requirements, though, I think we all agree that any user of the SSAD system must be accredited. So, in theory, anybody would be eligible to apply. So I guess I'm not sure exactly what we mean by definition of eligibility requirements. I'm not sure if this is something we refer to in other places. If it is, I don't remember.

Staff, is that something you can help me out with? Is this something we're applying somewhere else, or do you have

something in mind when you talk about the definition of eligibility requirements?

JANIS KARKLINS: In the initial report, I'm quoting, Marc: "The accreditation authority (in Subpoint J) must have a uniform baseline application procedure and accompanying requirements for all applicants requesting accreditation, including definition of eligibility requirements for accredited users, identity validation procedures, identity credential management policies, identity credentials revocation procedures, signed assertion management," and so on. So that's on the screen.

MARC ANDERSON: Okay. Thank you. I think then, based on that, we're saying that that first bullet point—what the definition of eligibility requirements could be—would be reviewed and revisited over time by the accreditation authority, and then that could change over time, but then that also must be clearly published.

Do I have that right?

JANIS KARKLINS: Sounds logical to me.

MARC ANDERSON: Okay. Then, based on that, I think that makes sense—

EN

JANIS KARKLINS: Maybe an addition to this could be related to transparency: that every revision should be publicly available or something like that.

Any other reaction?

Okay. The next question is about auditing of the accreditation authority. Caitlin?

CAITLIN TUBERGEN: Thanks, Janis. I could actually take the next two, if you don't mind. That's because, with respect to any references to auditing and reporting, staff noted that we could discuss those particular requirements in their respective recommendations: in the auditing recommendation and in the reporting recommendation as opposed to within the context of the accreditation recommendation.

JANIS KARKLINS: Okay. On frequency of auditing, is there any opinion?

Okay. No opinion. Let us move then to—we will come back then with additional elements in the respective recommendations on auditing and accreditation—user revocation and abuse. Caitlin?

CAITLIN TUBERGEN: Thank you, Janis. A comment received with respect to accredited user revocation and abuse is that the accreditation authority may obtain information from other parties and making a determination that abuse has taken place. But this is an implementation detail, not a policy determination. Sanctions would be further determined

and developed in implementation on the proposal of ICANN Org. We want to make sure there were no disagreements with that proposal.

JANIS KARKLINS: Okay. The floor is open for any comments.

Marc Anderson, please?

MARC ANDERSON: Thanks. On the first one, I thought we had agreed in other places that the SSAD must have a mechanism for reporting abuse. So I think that's in conflict with this one that seems to indicate that the accreditation authority may obtain information from other parties but that's really up to implementation and not policy. So I think this conflicts with what we've already agreed on: that the SSAD must support a mechanism for reporting abuse.

JANIS KARKLINS: Thank you, Marc. I think that staff took note on that.

Any other comments?

Brian, please?

BRIAN KING: Thanks, Janis. I'm not opposed to the concept of Org suggesting how abuse is treated here. The word "sanctions" is concerning to me. I think the recourse that we spelled out is limited to temporary

or permanent revocation of access or de-accreditation. So I'm not sure that "sanctions" is the appropriate word to capture that limited recourse. So I would suggest that we change that. In general, I don't oppose the concept that Org can suggest or propose those in implementation. Thanks.

JANIS KARKLINS: Thank you. Any other reaction?

Okay. It's unlikely we will get to the document in then remaining seven minutes. I think that we have reached the limit of today's meeting, and we should continue consideration of edits to Recommendation 1 during the next meeting.

I would suggest that, from current experience, two things. One thing is that the proposed method is something that allows us to move forward at a reasonable pace, but we need to finetune this method. One of the elements in that, together with a list of considered issues, we need to receive also the text of the initial recommendation that we could clearly compare to and then go from one text to another to refresh our memory.

The second learning is I think that three hours of work online, even with a seven-minute break, is maybe too much. I would suggest that, in the future meetings, we stick to a two-hour schedule and work without a break.

Let me then suggest that, next time, we will meet in one week, on April 16th. We will continue the examination of Recommendation 1 and we will begin the examination of Recommendation 2.

In the meantime, I would ask GAC, and Chris particularly, to work with the staff and try to already identify the redundancies with Recommendation 1 when it comes to accreditation of government authorities and come up with a maybe streamlined suggestion with an understanding that, if there is a specific element related to accreditation of government officials, then they stay on with the rest. The overall accreditation principles would apply. So we will try to work on that basis.

Staff will send out the homework and what needs to be done following this meeting. What remains is to thank all of you for active participation, but, before saying goodbye, I recognize the hand of Chris, Chris, please?

CHRIS LEWIS-EVANS: Thanks, Janis. Just to say I'm going to struggle to do too much in the next week or so, just because of the response I'm having to give to the situation at the moment. So—

JANIS KARKLINS: But staff will help you.

CHRIS LEWIS-EVANS: Yeah. I'm struggling to spend two hours on these calls, to be honest, let alone three.

JANIS KARKLINS: Okay.

CHRIS LEWIS-EVANS: So I will try my best, but I just cannot guarantee it at the moment, I'm afraid.

JANIS KARKLINS: Okay. Thank you. With this, in absence of further requests for the floor, thank all of you for active participation, and I adjourn this meeting. Have a good rest of the day.

[END OF TRANSCRIPTION]