
ICANN Transcription

EPDP on the Temporary Specification for gTLD Registration Data – Phase 2

Thursday, 20 June 2019 at 1400 UTC

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JULIE BISLAND:

Good morning, good afternoon, good evening all. Welcome to the seventh GNSO EPDP phase two team meeting taking place on the 20th of June 2019 at 14:00 UTC.

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

Hearing none, we have apologies today from Kristina Rosette, RySG, Stephanie Perrin, NCSG, Thomas Rickert, ISPCP. They have formally assigned Arnaud Wittersheim, RySG, and David Cake, NCSG as their alternates for this call and remaining days of absence.

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Alternates not replacing a member are required to rename their line by adding three Z's to the beginning of their name and add, in parentheses, affiliation dash alternate at the end, which means that you are automatically pushed to the end of the queue. To rename in Zoom, hover over your name and click "rename." Alternates are not allowed to engage in the chat, apart from private chat, or use any of the other Zoom room functionalities, such as raising hands or agreeing and disagreeing.

As a reminder, the alternate assignment must be formalized by way of Google assignment form. The link is available in the meeting invite.

Statements of interest must be kept up to date. If anyone has updates to share, please raise your hand or speak up now. If you 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 circulated on the mailing list and posted on the public Wiki space shortly after the end of the call. Thank you, and over to our chair, Janis Karklins. Please begin.

JANIS KARKLINS:

Hello. Welcome to the seventh meeting. We have agenda now displayed on the screen, and I would like to see whether we are in agreement with proposed agenda. I see no objections, so then we will follow the proposed agenda. Let me start with the first item, housekeeping issues. So I probably will rely [inaudible]

Do you hear me? I got a message that I was muted.

CAITLIN TUBERGEN: We can hear you now, Janis.

JANIS KARKLINS: Thank you. If I may ask Rafik to brief us where we are with the request for additional funding for face-to-face meeting in September and possibly afterwards. Rafik.

RAFIK DAMMAK: Okay. Thanks, Janis. For the request, as you can see, I think the letter that is shared in the agenda, we sent it to the board, and now we are just waiting for the response. So we put based on our timeline the kind of tentative dates for the face-to-face meetings, and so we hope that we get a response from the board as soon as possible.

JANIS KARKLINS: Thank you very much, Rafik. So a letter has been sent. Most likely, we will be notified during the Marrakech meeting, and then of course, I also wanted to note that two days ago, I received a letter from CEO of ICANN which was addressed to me and to chair of GNSO council concerning ICANN Org engagement with the European data protection agencies.

I forwarded the letter to the team mailing list right before the meeting, so please review the letter and we will have during the Marrakech meeting also a possibility to engage with ICANN Org.

Hopefully also with CEO, and if anybody will have any questions, then I will be able to ask about including those concerns or comments that you may have in relation to the letter.

So, is there anyone who would like to speak at this stage? I see none, so then let us move to the next agenda item. [If you may] scroll down the screen. So we have during the last meeting secretariat proposed a list of third party legitimate interest for review of the team.

We had the first conversation about it, and I asked everyone who would like to provide any comments or make any edits, or any additions to the list, to do it prior to this meeting.

We have received two substantive inputs on the list that came from contracted parties house and from SSAC, if I'm not mistaken, and I would like now to propose maybe to spend some time talking about those proposals, if I may call on Matt Sirlin maybe to give us a background and also the essence of your proposal as well as since you referred exclusively to law enforcement agency access and disclosure. So, is there anything – is that the only group that you think should be allowed access, or in your opinion, there should be some other third parties which could have access or disclosure of the information? Matt, if you could start this conversation.

MATT SIRLIN.

Yeah. Thanks, Janis. I'll start off the conversation, and then this was a joint registrar and registry comment, I'll actually tag team with my colleague, Alan Woods, to pick us up.

Essentially, we tried to provide very specific feedback and comments on the purposes document, and you'll note we did it in line with the text so that it would be very clear and we could really talk to the specific purposes and our feedback on them.

I hope everyone had a chance to read them, and at a high level, you can see – hopefully the one comment there that was in bold sort of halfway through the document – we were really hesitant to come up and provide positive feedback on a lot of these purposes out of the concern that as we've stated before, the concern that someone walks up, knocks on the door and says, Hi, I'm a security researcher, I'd like access and disclosure to this entire list of domain names," and that really gives us pause.

So the purposes as written, we just didn't think were as specific and as tailored as they need to be and really didn't take into account the balancing task that needs to take place really in all these cases.

And Janis, you talked specifically about law enforcement, and as we've said in the past, we don't really think law enforcement needs a specific purpose as documented here. It's sort of already accounted for in GDPR and we've sort of made that point in the past, so we continue to provide that feedback specific to law enforcement.

So again, we're looking forward to engaging in discussion and hearing other people's perspective on this, and maybe I'll ask Alan to speak to some of the more specifics, and with that, maybe Alan, if you can take it from there.

JANIS KARKLINS: Yeah, Alan, please.

ALAN WOODS: Yes, absolutely. Thank you, Matt, for that, and thank Janis as well. I suppose I need to start off initially saying the point of our feedback was not to say that we believe there is only one legitimate purpose. That is absolutely not what we're saying, and I just want to be clear on the record, that's not what the point of our feedback was.

We were provided with a form of the feedback, and we wanted to make sure that we dealt with each individual element of the purposes that were raised and said why we have misgivings with them specifically from the point of view of that being a specific claimed purpose.

And it really does come back to – and I understand we are trying to figure out a good starting point here, but the thing is we don't believe that a particular purpose is in its own right definable as a legitimate purpose if it is under article [6.1(f)] specifically, because any purpose could be based on the type of request the data that is provided, the specific legal basis, the specific individual information for our request makes that legitimate purpose, not some checkbox list of purposes, so we need to be very clear.

But what we're saying here is we do not believe that we can actually define what legitimate purposes are. We're not saying that each one of these ones that are highlighted may not be, in the circumstances of the individual request, a legitimate purpose, but

what we're actually saying is that as a high-level, it is not to be considered a legitimate purpose just merely because we have called it out. I think that's a very important legal point that we need to be very clear on.

So one of the ones we're talking about, we're not saying that security research is not necessarily a legitimate purpose. Again, depending on what is being requested and for what reason at that time, that may be legitimate. If you're looking at ones that are more of a 6.1(c) or 6.1(e), then we're not looking at legitimate purposes. We could potentially call them out, but again, we're not looking at a purpose here, we're looking at a legal basis, and if we were to go ahead and align our efforts via the legal basis, that is article 6.1 A through to F, that would be a much better starting point. And I think that's one of the points [inaudible] is going to take us and has suggested to take us through, let's look at a request and let's see what would be the steps to go through that.

And the first question is quite simply, what is the legal basis? Because what the legal basis is is what is going to make you take different steps and how you treat that individual response.

With certain legal bases, there may be a way in which we can automate. I completely agree. So if there is a law enforcement – where there is an established legal right for a particular institution to do so, we might be able to automate something like that, because again, there's no discretion and there's no requirement on the controller to make a call there, because the legislature in the individual country has made the call there.

But when it comes down to an article 6.1(f), this is where it starts to get difficult, and I think we're going down a wrong path if we start trying to define those purposes as legitimate. They are purposes, but we can never say that they're legitimate, because that requires an individual assessment. And I think that was the point.

So I'm sorry if it didn't come across as that was our overall point on that. We just wanted to take each particular instance that had been put into this document and explain why we believe that it wasn't necessarily capable of being called a legitimate purpose as a general high-level idea.

I'm sorry I went on a bit longer, but that's the thought.

JANIS KARKLINS:

Thank you. I see there are a number of requests for the floor. But if I may ask or propose maybe methodology for our future engagement and work, it is probably the easiest way to edit and agree or disagree with the proposals coming out from secretariat, which tries to capture everything what has been said in a previous meeting, and then just wait for the next meeting that we can discuss that and then see whether we can agree and then what next steps we can do.

If I may ask from now on, come up proactively also with your own proposals, like in this, because for the moment, when we received and discussed this contribution, we were kind of uncertain how to take it, what to do and then whether this is another impasse that we're in or we're putting ourselves in.

We started with trying to identify who could request disclosure. It was shut down saying this is the wrong start, we need to talk about purpose or legitimate interest.

So now we're talking about that, and then we get feedback from the main group or main interested party if I may qualify contracted parties house that way, saying, oh no, this is the wrong way.

So what then we need to do – just please think what kind of contributions you can provide and how you can express yourselves, but also trying to drive our conversation forward towards establishing those building blocks. And also, I spotted you're already thinking about automation. I think this is a little bit premature for the moment where we're just trying to answer questions: who, how, on what basis can ask, and how it will be given, what will be given in return.

And once we'll have common understanding of those elements, then we will start thinking whether something could be automated, whether everything should be done manually, whether that should be approach that everyone would take or only few, or that would be agreement that everyone would take or only those who would like to do it, and so on.

So simply, we're not spinning wheels but we're still standing in a place without progress that we could demonstrate that we're advancing. So please think also in those categories.

So I now have six requests starting with Hadia, Thomas, Amr, Mark SV, Alan and Margie, in that order. Hadia, please go ahead.

HADIA ELMINIAWI:

Thank you, Janis and all. So first off, I would like to say that my understanding that the circulated document by staff represents the possible legitimate interests. Whether those are actually legitimate interests or not will depend on the purposes and the circumstances. I haven't had the time to look through each and every comment of the contracted parties, but I have a few general comments.

First, with regard to the purpose in relation to law enforcement in which they say the inclusion of 6.1(f) is a local basis incorrect and must be removed, well, according to the information commissioner's office, this restriction on the use of legitimate interests is about the nature of the task, and not the nature of the organization. This means that if you're a public authority, legitimate interest could potentially be available for you to rely on if you can demonstrate that the processing is not part of you performing your tasks as a public authority. So that's why I think that putting 6.1(f) as one of the lawful bases in very limited cases, and I underline in very limited cases, is actually correct.

In relation to for example technical issues in which again the contracted parties see that this is not a legitimate interest, well, very well it could be very well not a legitimate interest, but then again this will depend on the circumstances. So in order to eliminate the purpose entirely because sometimes it could be a legitimate interest and other times it could not, I think, is not correct.

For example, if the contacting is in relation to reporting for security reasons in relation to the domain name, well, this could be considered a legitimate interest. Again, it will depend on the

purposes and the circumstances. Also with regard to the scientific research or – again, this could be a legitimate interest, and in other cases, it could not. So according to recital 50, it says that the processing of personal data for purposes other than those which were initially collected [inaudible] should only be allowed when the processing is compatible with those original purposes, and then some potential compatible purposes include if the processing is for archiving purposes in the public interest or historic or scientific research purposes.

So again, in order to see if this is compatible or not with our purposes, the collection of purposes, we need to relate it to our work in phase one. Again, I must say those are like initial thoughts. I haven't had the time to look into everything. Again, there is a comment with regard to whether we consider data subjects as users or not.

Well, there are two different users of the term “legitimate interest” in the GDPR. The first is lawful basis for the processing of the personal data, and the second is the legitimate interests of data subjects, which controllers and processors would also need to take into consideration. So by definition, yes, it is a legitimate interest.

So again, I would say that maybe if we relate those uses to the work of phase one, maybe we will be able to find common points and common understanding, but then again, this is up to the group. Thank you.

JANIS KARKLINS: Thank you, Hadia. Thomas?

THOMAS RICKERT: Thanks very much, Janis, and I would like to apologize for having sent an apology and then showing up without giving you advance notice. I hope I haven't disappointed too many of you by being present in this call.

JANIS KARKLINS: Not at all.

THOMAS RICKERT: So I didn't expect to be able to talk during this time of the day as I'm traveling. I would like to make a couple of points with respect to this, and Janis, I've heard your introductory remarks and the frustration, which to a certain extent I do share, that you're making different attempts to please the group's wishes to make this move forward, and then it doesn't really work out.

I think that the work and discussion on legitimate interest being present or not with law enforcement is a discussion that is not a waste of time, and I think we need to have discussion, so I think there's no energy wasted on this discussion at all.

However, I do think that – and this is my proposal to move things forward. I think that on this particular point, we should probably consider sequencing things slightly differently. And you might remember when I accepted negligently the task of coming up with a use case, a document during the last call, I suggested that we

focus on civil claims first and civil requestors before moving to the law enforcement arena, because there are legal complexities with that, some of which Hadia has alluded to.

I however take a different look at the way [inaudible] and I'd like to explain this briefly. And my view is different than Hadia's on this point. 6.1(f) clearly states literally that public authorities may not use legitimate rights as a legal basis when exercising their core functions, and it's difficult for me to believe that investigations carried out by law enforcement are an activity that does not fall within their core activity.

That means that 6.1(f) is blocked for law enforcement to base their processing on. That will primarily put our focus on 6.1(c) for responding to law enforcement disclosure requests, and for 6.1(c) where a contracted party can disclose data in fulfillment of legal obligation, the law enforcement authority needs to have a legal basis for making that request, some of which you have in penal codes or in telecommunications acts or wherever that might be.

But the difficulty is that according to legal literature – and I'm happy to be told differently, and maybe Georgios can help with this – this is limited to laws and other statutes in Europe by European lawmakers. And whilst we can try to assemble all the national laws based upon which contracted parties can disclose data, at least at the national level, I have a hard time reconciling this with the request that non-European law enforcement agencies will [inaudible]. And understandably so.

So that could lead to the interesting situation where European law enforcement authorities need to be able to cite a legal basis for

their request while non-European law enforcement authorities merely “have to claim that they have a legitimate interest.” So that makes the hurdle for getting data potentially lower for non-European law enforcement than for European law enforcement.

We've discussed this in phase one already, and it is on the record. We've also added that question to the list of legal questions to be answered, and therefore my request would be, my suggestion, which I hope you will take as constructive, is that we go to either Bird & Bird or our friends from the GAC, try to get that question resolved so that our group gets clarity on whether we can proceed working on legitimate interests for both European and/or non-European law enforcement, or whether we're stuck with the dilemma of making a distinction between 6.1(c) and 6.1(f) and what the consequences of that would be. Thank you.

JANIS KARKLINS:

Thank you, Thomas, and as soon as we're done with this, I will ask you to present the case you kindly prepared for our consideration. Next on the list is Amr followed by Mark SV.

AMR ELSADR:

Thanks, Janis. I just wanted to add to everything that's already been said, that one of the gating questions to me – and forgive me for borrowing that phrase – is also what is within ICANN's remit, what is consistent with ICANN's mission.

There could literally be millions of legitimate interests out there, and I specifically refer to them as legitimate because they might very well be legitimate. Someone could conjure up one of the six

legal bases to support these interests, but again, one of the things we need to make sure that we don't stray from is not going beyond ICANN's narrow mission, and I see that in some of the language used to describe some of the third-party legitimate interests that have been shared with us, and this is something we've also seen previously in the list of legitimate interests that the now disbanded RDS PDP working group came up with, and it's something that we heard from the EU data protection experts at the time when they're engaging with that PDP. So I think this is something we need to always consider and keep in mind. Thank you.

JANIS KARKLINS:

Thank you, Amr, for this remark. Next is Mark SV followed by Alan Wood.

MARK SVANCAREK.

Thank you. I have a number of comments. I think one of the difficulties that we're facing reviewing this document and answering this charter question – and I think this is especially tricky because this is related to a charter question – is that we're not operating from a common set of definitions [on the word] "purpose."

So let's separate the idea of legitimate interest from purposes. It had been my assumption that when we discussed purposes in this exercise, that we were trying to define which sort of activities by which sort of users we would either explicitly block or that we would show a bias towards approving or that we should show a

bias towards rejecting but not explicitly block. Something – a spectrum similar to that.

So when we say this is not a purpose because a balancing act will be performed, I think that's where we have a definitional problem, because those are really not intended to be the same things, at least in my expectation. So when I first saw this document, I said, "Wait a minute, there are no purposes for third parties." Then when I read it, I said, "Oh, I see what's happening here, they're simply saying that they're not going to preapprove categories of legitimate interest," which makes sense. We know there's a balancing test.

So it would have been helpful if there had been some sort of a positive suggestion for moving this forward as opposed to a blanket statement that there are no third-party purposes, because of the balancing test. So I think that's where some of the confusion is coming from.

Regarding the assertion that you can't just show up and say you're a security investigator and therefore do something, that seems like that's a completely orthogonal discussion to what the purposes are. So if we say we support a purpose for security professionals to do a thing. That's completely different from how we determine that a person is in fact a security professional qualified to do that thing.

So I wouldn't want to put those same things into the same discussion necessarily, and that's separate from whether we automate it or not. If I send an e-mail or a request by post, there's still that same issue of how do you know that this person is a

security professional or a trademark attorney, or whatever credential is required to support the demonstration of legitimate interest.

And I think that it's really what the issue is here, is that from a policy perspective as opposed to a legal perspective, once you've established that something is theoretically lawful, we still have a policy discussion about what our bias is. Are we inclined to support security professionals who have demonstrated their credentials and who have made a convincing case that they are engaged in a certain activity, or do we have a bias against that activity? Or are we even saying by policy, we reject the idea that this activity by this person, this credential person, that we're not even going to support that.

And I think that I thought that was the purpose of this exercise, to define categories of these things. If that's not the case, then what the contracted parties have submitted makes sense, but I think that puts us in a couple of dilemmas, one of them is that in fact there is a charter issue that we have to resolve regarding purposes. But the other is that at a policy basis, I don't think that we don't have any confidence one way or the other that any activities will have predictable outcomes.

So I think we have a challenge, and I'm not really sure what the next step forward is, so I'm open to suggestions on that. Thank you.

JANIS KARKLINS:

Thank you, Mark. Margie?

MARGIE MILAM:

Hi. I think Mark probably raised a lot of the issues that I was going to address. I think we're conflating a number of issues. Once we identify the right purpose – and I think we should use the word “purpose” instead of legitimate interest. I understand what others were saying, and I think the word “legitimate interest” is probably more – has a specific meaning, and we have multiple legal bases that apply. So I think we should stick with the charter, use the word “purpose,” and then the issues I think that the contracted parties have raised, there's a lot of real issues there that need to be addressed, but those are ancillary ones, like if there is someone with this purpose, what access do they get? Is it one record, is it more than one record, what do they have to agree to, what do they have to prove before they can get there? In terms of their status.

So I think those are all legitimate issues we have to address, but I think they're at a later time. We should focus on just simply defining what the purposes are, and then know that we have to address those issues before we've really done our work.

So I think that's really what I wanted to say. And then in response to the issue about ICANN's scope, this is clearly within ICANN's scope. Look at the bylaws. I think that's a red herring, and I believe that we should stick with the work that we've been chartered to do and not have a concern that it's outside the scope of ICANN. Thank you.

JANIS KARKLINS: Thank you, Margie. Greg Aaron.

GREG AARON: Thank you, Janis. I think it'll be worth some time for the contracted party house to articulate its views, maybe outside of the confining format of the document that we saw this week, because it kind of poses some fundamental issues that we're going to have to understand together and then figure out some solutions to perhaps – one of the things that Alan said was we cannot define what legitimate purposes are, I think I got that quote right, but the GDPR itself defines in the recitals some legitimate purposes, specifically for security.

I think what the [CHP] is trying to say is security purposes are legitimate, let's discuss what that means. We do have to talk about the specifics of the requests. But the bottom line is when somebody makes a request, they're going to have to state their purpose, their legitimate purpose. But if we can't define what a purpose is, every request is going to be handled as a one-off, and there'll be no standards or common understandings about what kinds of legitimate purposes there are.

One of the results would be that the receiving party is the only arbiter of what's legitimate, and such a system wouldn't be practical, and it would be unbalanced. That kind of situation might not be envisioned by the authors of the GDPR.

So we're going to need to work on this. My personal view has always been that if somebody makes a request, they're going to not only say who they are, "I'm a security professional," but they're

going to say why I'm making the request, what is the purpose. That would have to be passed as part of the request. So yeah, we're going to have to define what legitimate purposes are. Thanks.

JANIS KARKLINS: Okay. Thank you. Seems that I have omitted Alan Woods. Sorry for that, Alan. You can speak now.

ALAN WOODS: Thank you, Janis. Just wanted to remind. Yeah. I think I feel honored [inaudible] at this particular point to say it seemed almost that our comments have been met as if we were trying to be obstructionists here. Not really at all, in fact. What we did was what was asked of us, and that was we were given homework to react to this document, and we reacted to this document. And I would like to thank Thomas for saying it is pragmatic because at least we're having this conversation. I think it's an exceptionally important conversation.

There's many things that Hadia said that unfortunately I do disagree with very much fundamentally, but one of the most important things is if we're talking about legitimate interests, we are only talking about one thing, and that is specifically 6.1(f). That's the only one that has "legitimate purposes" [Imbued] to it. And therefore, it does have the balancing test.

If we're talking about law enforcement, we're talking about vital interests, we're talking about any of the other ones, we're not talking about legitimate interests, not talking about the balancing

test, we're talking about a legal right established in the laws of the European Union or a member state when we're talking about GDPR. So we need to be very clear that now we're definitely conflating those two.

Margie was talking about we should stick to the word "purposes" because it's in the charter. The charter was not written by experts in the subject matter. The charter was written by people who were trying to figure out in a very short period of time the questions that were going around the community.

I don't think we need to slavishly be stuck to a word that they went upon, especially if it's causing so much issue from a legal and ideological point of view. So we need to be careful on that, number one.

And number two, the bylaws. [She] talked about red herrings. That's the red herring for this entry. Just because it's in the bylaws does not make it legal. It means that we came up with something as a community. But again, what we're talking about from a public purpose point of view, because that is the usual red herring that is brought up, public purpose must be established in the laws of the European Union or a member state. ICANN does not enjoy such a legal status, so we need to work in that which we are given, and that is ensuring that we have a system in place that we can help people, make it easier for them.

There is no suggested right to anybody, except for the contracted parties, to actually have this data. It needs to be established. And that's what we're trying to do.

So all we're saying is that we should start from that which is the most clear and the most obvious, is the legal basis. And from the legal basis, then perhaps we can go on to the groups, but we're putting the kart before the horse quite simply in this one. And I just think that whatever this whole he said she said sort of approach that just occurred is somewhat upsetting. We're trying to give a pragmatic – instead of going too far down one road, we're giving a pragmatic starting point, and that's what it was intended by. And in a very short period of time, we gave that. So apologies if I came across as blunt ,but we've not been given much of a point in this. I'm if I'm coming across a little bit miffed in this, because I am. We did what was asked of us, and I'm sorry that it didn't come across as softly or as cotton wool wrapped as it should have.

JANIS KARKLINS:

Okay. Thank you, Alan. I think we will get over it, so don't worry. The emotions are not the best in this conversation. So let us listen Alan Greenberg, Georgios and Mark SV, and then we will wrap up this part of the conversation that certainly we will continue in Marrakech. And we'll look at Thomas' proposal. Alan Greenberg.

ALAN GREENBERG:

Thank you very much. The blessing or curse of speaking so late in the queue is that almost everything has been said. I'll try to be very brief. At this point, there is no purpose that's going to be guaranteed, there's no group that's going to be guaranteed. There are decisions that will have to be made. But if we don't start cordoning things off and putting fences around things, we have no basis under which to make those to have the further discussions.

So yes, having a specific purpose does not guarantee it. The details matter. But as Alan Woods just said, we're trying to find ways to help guide those decisions, and there will be some clear cut cases. In the general case, there is no black and white, there are going to be decisions made, there are nuances which we have to consider, but I strongly believe that any of the paths we're taking would have helped us try to delineate the further discussions, and I think we need to take one of these items – and I don't care which – and I agree with Alan that we shouldn't be slavish to the charter if indeed the words are wrong, but – start having the substantive discussion and not presume every time we have something, we put something on the table, that it 's as black and white issue and then suddenly we are granting access without further nuances. That's not the case.

And my last point is we keep on talking about law enforcement. As has been pointed out, there's law enforcement within the European Union member countries, and there's law enforcement outside, and the rules may be very different. We may not grant anything to law enforcement outside of the European Union through our processes, but we need to have that discussion and let's not conflate the two law enforcements. Unfortunately, the words are identical. Thank you.

JANIS KARKLINS:

Thank you, Alan. Georgios?

GEORGIOS TSELENTIS: On the same line I think of what was just said, I believe we have [inaudible] the discussion of phase one, and for me, there is a logic with a very clear thread between the why, what is the legitimate interest or purpose, and want to call it the group that this disclosure is going to be given. The legal basis under which this disclosure will take place, and the specific data that we want to disclose, and there are many other specificities that for each case, we have maybe to dig further down. But I am much more to start as we did in phase one, because if we continue discussing about the very comprehensive way that we put this type of template that we want to discuss from what to start, from which purposes we want to address, I think we will lose precious time. So I'm looking forward to the proposal of Thomas and the discussion to start with one case, I don't care which one. To the question that he raised beforehand, we had with the GAC also already discussion about the jurisdictions. We know that this is a very thorny issue, and we will try to provide some input later on on this. Thanks.

JANIS KARKLINS: Thank you, Georgios. Mark SV.

MARK SVANCAREK: Two comments, and also, if I did seem like I was [inaudible] Alan, I apologize, because I was really making an effort not to do that. So if that came across that way, I apologize for my choice of words.

My two points were some of us have objected all through this phase to the categorization of all third-party requests being 6.1(f).

So the example that I've been putting forward lately is that sometimes an Office 365 subscriber will ask us to go get their WHOIS data for various purposes.

Our request there would be performed under 6.1(b), performance of a contract, and it's a separate issue how Alan determines that I am actually performing a contract when I make my request, but my basis is not 6.1(f).

So let's not say because everything is 6.1(f) that therefore we must go down a certain path, because some of us have disagreed that – Alan, my request is 6.1(b), it's not 6.1(f). I am performing a contract. And we can get legal feedback on that, if there's any debate about that.

So anyway, if we don't agree that everything is 6.1(f), then saying that because everything is 6.1(f), we must perform a certain function, that's wrong.

Secondly, regarding being slavish to charter definitions, I think that it should be clear by now that I've never been a fan of the charter, and I felt that it's disempowered me in many stages along phase one. But the fact is we do have a charter, and we have been held accountable to it many times in the past, so we can't just simply say, "Well, just because it's in the charter doesn't mean we don't have to do it." We are bound by the charter, and we have to, as a group, change the charter if it no longer suffices. And I think we did that in the case of disclosure in phase one, and I think that if the term "purpose" used in this context is going to be a problem, we need to come up with a way to define what it is. We can't

simply throw it out and say, “Well, the charter was written by novices” or something like that. Thank you.

JANIS KARKLINS: Thank you. In the meantime, Greg is asking of the floor again, and I will give it to Greg, and then I will draw the conclusion.

GREG AARON: Thank you. Just briefly, I do agree with Mark that 6.1(f) is not the only basis that people may be working under. For example, there's 6.1(d), which is protecting the vital interests of data subjects and other natural persons, and then for example I'm wondering if law enforcement can make requests under that, because it's not excluded under 6.1(f), and other parties might have to do that kind of thing as well. Mark mentioned 6.1(b). And C and E might apply as well.

So the discussion is broader than just 6.1(f). Thanks.

JANIS KARKLINS: Thank you, Greg. I have a feeling that we are trying to use theoretical approach to things that probably are much more practical than we think intuitively. I feel that maybe we should start looking in those cases, and maybe that will help us get over this theoretical discussion, purpose, interest, legal basis, and let us now move to Thomas' case and see whether at the end, we will be able to use it as a role model and develop further mainstream cases and see whether that would bring us to some kind of breakthrough in terms of advancement in our common

understanding. Would that be okay? So I see two old hands, Mark and Greg. Mark, you still want to say something? No. Thank you. Thomas, please.

THOMAS RICKERT:

Thanks very much, Janis. And I would like to start this off by making reference to an e-mail that was sent to the list I guess yesterday asking to defer the discussion on this topic to the next meeting. So Janis, I'm not sure whether you've seen that. I guess the reason was that Brian had an offer to help with the action item, and since the delivery date was Monday, we didn't really have time to work on this collaboratively, so the work product that you have seen me submit to the list was something that originated from me and not based on a collaborative effort between myself and Brian.

So I just wanted to put this on the record, so if you want to defer the topic, please interrupt me and we can do that in the face-to-face meeting.

JANIS KARKLINS:

He also mentioned that this may be a first reading and that we would do the second reading in Marrakech during the face-to-face meeting ,so that was my understanding of his message. So since we are on the call, and we're devoting time to this exercise, why don't we make a first round of comments and see whether your case stands? And so we will continue in Marrakech.

THOMAS RICKERT:

Okay. Great. Thanks very much, Janis. I think I need to offer a little bit of context, some of which I've sent to the list a few minutes back, because I got some feedback off list, both supporting as well as criticizing the document that I sent. So I think I should probably have prefaced the [draft] with some notes in the first place.

But I guess it's important to note a couple of points before we delve into the discussion, because otherwise, we might get distracted pretty quickly.

First point is that I had offered to write this up to help find a methodology that our group can work on, because we have seen different approaches to advance our communication or collaboration, and nothing came to fruition so far.

So you should look at this document in the first place as a discussion starter in terms of methodology and format, and only secondarily in terms of content.

The second part that I'd like to make is that I tried to keep this as narrow as possible in scope. So Janis, you mentioned also whether we could broaden the scope of this use case a little bit, and I had responded to you that I would prefer not to do that at this stage because as soon as you open this up, you get loads of different topics and complexity [which might] distract our conversation from focusing on the methodology.

Having said that, yes, I think that this is a very narrow in scope use case, so there might be associated quires. For example when it comes to cybersquatting, it's very interesting for the rights holder

whether the cybersquatter has additional domain names registered. So if there are patterns [in the abusive] behavior.

This is intentionally not part of this one. Can be either added to the scope of this use case or it can be an additional use case. So this is not [lost] or there's no intention to sweep associated requests for disclosure under the carpet. This is just to be taken for what it is: a disclosure request of a trademark holder for registration data for a specific given domain name [inaudible].

The third point is that I don't claim authorship for this entire document. It was drafted by the [inaudible] GDPR industry playbook many months back, and so this is part of a collaborative effort that I built on, otherwise I wouldn't have been so brave and accept this action item with such tight deadline.

And lastly, I think we should all be clear that this is not an ISP CP position. This is just my attempt to help drive these conversations forward, so it might be subject to change based on the conversation that we have in this group.

So looking at the document, which I hope some if not all of you have before this call, the idea is that we answer different very easy and hopefully not too legal questions when going through use cases.

So this is for trademark owner requesting data to take legal action against cybersquatters, so it's not just to see what's out there but it is if you have found a domain name that infringes upon your rights, and if you want to take legal action, you want to check

where you can find the cybersquatter and send letters, maybe cease and desist letters or take other forms of legal action.

So the user group for this use case would be trademark owners, their attorneys or agents, and I think we would need to work on definitions for these terms as we move on, but the idea is that not only the trademark owners themselves can file a disclosure requests but also trademark agents. We have a – at least in the jurisdiction that I come from –very regulated profession where legal services can only provided by certain groups of people ,so it should not be anyone but we need to put in writing what we understand to be an agent. I think the attorney definition is relatively clear.

So this is intentionally not covering patent or copyright infringements because those would likely be related to content, publicized under a given domain name, and this is a territory that I intentionally did not want to enter into in order not to complicate matters.

Then there's the question why nonpublic registration data is required. It's required to take legal action, because of the IP law violation, and then there's a discussion [under C] with respect to the legal basis for that disclosure request. I think that's quite self-explanatory, but I think this is something that we need to put into every use case, i.e. a small or a brief rationale as to why there is a legal basis for honoring disclosure requests.

Then under D, that's potentially a point which is more controversial. That's the list of general safeguards for those who

want to be accredited and benefit from an accreditation scheme, although accreditation criteria should be discussed later.

The reason for such list is that the European Data Protection Board, or at the time when it was still called the Article 29 group, has explicitly requested that ICANN's access or disclosure model should have sufficient safeguards in place in order to avoid that data is illegitimately pulled from the system.

So the list of safeguards are a response to that requirement from the European data protection board, but also from GDPR itself where in article 5.1, we have the purpose limitation as a legal requirement. So I suggest that we go through those very briefly. Only accredited users might request data, you can only request current data, no requests about historical data, and this is the first point that I think needs to be discussed by our group, because this was, as well as other points of this list, based on the thinking that we our group has the task of making ICANN's handling of registration data, including the existing or previously existing WHOIS service, compliant with GDPR. And the existing or previously existing WHOIS service did not include returning data about historical data.

It also did not include Boolean searches. It did not include reverse lookups. Those are functionalities that you get from vendors of registration data who have compiled databases of data that is then fully searchable. But that is a functionality that you would get from commercial vendors or other companies that have potentially done that inhouse for their own research purposes. But these are functionalities that ICANN has never offered itself nor required contracted parties to offer.

So you might see this as a limitation to what we've seen in the marketplace previously, and that is correct, but what we've seen in the marketplace previously is something that was not coming from ICANN but it came from third-party vendors.

And if our group feels that it is within the scope of our EPDP to discuss the scope of what disclosure requests can or should be honored, that should be discussed, but this is just to explain why you have these limitations. So it's basically building on the previous system and making that compatible with the GDPR.

Also, you can only sequentially look at individual domain name data or request data sequentially, so you can't have multiple requests going on in parallel, no bulk access. I've mentioned previously no Boolean, no search functionality, no reverse lookups.

Disclosure requests must be directed at the contracted parties that host the requested data as long as we don't have a central system in place, and we might need volume limitations or slowed down response times in order to avoid that bad actors actually try to [walk] the database and thereby create a copy thereof.

So that's for safeguards. Then we should discuss the data elements that are typically necessary. My suggestion here is that for this type of request, you would require the name, the organization if any, and a postal address of the registrant. I think it's even up for discussion whether we need e-mail address, phone or fax number. So that's something that I haven't come up with a definitive answer to, but for this type of a query, we likely can't find justification for the [inaudible] for example.

But this is just to say that for other types of requests, we might have a broader or even more limited set of data elements that the query would return. Right? So for example, if you're interested in finding out whether – I'm just making this up now – there is illegal activity going on, let's say, with various domain names but using the same e-mail address. Then potentially law enforcement can file a request to find out how many domain names are associated with particular domain names, or whether you have certain e-mail addresses in the data set for the technical contact or the like. So it can be that that can be broader or more limited, but we need to go through what data is necessary in order to fulfill the purpose in question.

Then we have item F, which is actually the last point to be discussed, and that is how you can get eligibility for filing disclosure requests, and that would be providing evidence of ownership of the intellectual property. You need evidence that you have a trademark registration or if you're let's say the attorney of a trademark owner, then you need to provide a POA or a letter of authorization that you can act on their behalf of, or if you're a licensee that is entitled to enforce the right and the trademark, then you might need to present a letter of authorization of a different format.

And then we have further requirements for accreditation that would be, you know, you need to agree that you would only use the data for the legitimate and lawful purpose described above, so you can't use it for different purposes subsequently. You might have storage limitations, and [inaudible] you will only file requests with respect to the trademarks where you have evidence of your

ownership, so you can't as an attorney then take your POA and do all sorts of requests. That's at least the current proposal.

And then the last couple of points would be something that would go into an acceptable use policy to which hu have to adhere, and in case of violations of those, you run the risk of being put on notice and ultimately be deaccredited from participating in the system.

So I hope I haven't bored you too much, because typically it's not the best idea to walk through documents that everybody should have read, but I think it's worthwhile just to give you a little bit of context with the induvial points so that you can have a meaningful discussion. Back over to you, Janis. Thank you.

JANIS KARKLINS:

Thank you, Thomas. So there is another element that you didn't mention, and that is authentication policy, and then the question mark whether there should be any other issue we need to think about looking into specific cases.

So what I would like to propose now, if team members could give their first general appreciation whether proposed methodology could work and whether we could multiply those cases and then see what our converging issues that we could pull together and build kind of a set of principles out of number of cases similar to one that Thomas has kindly offered.

So I have a number of requests for the floor. It is Alex Deacon, Mark SV and Marc Anderson.

ALEX DEACON: Thank you, Janis. And thanks, Thomas, for putting this together. This makes sense to me, and I just have a few questions, again, sticking to the concepts of methodology and format versus getting into the details in your example here.

I think in the hopes of quickly moving on to substantive discussions and actually starting to nail down answers to the important questions in the charter, I guess first I'd love to hear from Alan and the contracted parties if this methodology would address their concerns and allow us to start doing that. I think that's the first question.

The second question is I guess one of methodology but process. So, is it envisioned, assuming that we agree that this template is the way to go, [is it the] vision that those of us on the EPDP would then start to submit examples for discussion of these templates on different – I guess we would call them purposes for now for discussion in the larger group, with the goal of ending up with a kind of approved, if you will, set of documents that describe all of this information. I think if you were able to do that, assuming that makes sense to most, it would put us on a track of getting our homework done, which I think is super important. Thanks.

JANIS KARKLINS: Thank you, Alex. Marc is next.

MARK SVANCAREK: Actually, I'm taking my hand down because Alex covered everything I wanted to say. So, thanks, Thomas. I like the methodology, let's move ahead.

JANIS KARKLINS: Okay. Marc Anderson, please.

MARC ANDERSON. Thanks, Janis. A couple things. First, Thomas, thank you for the explanation. I thought that was very helpful. I also want to acknowledge the point earlier. I think two weeks ago, we started the conversation talking about users and groups, and that didn't seem to work great. So based on feedback, we shifted and talked about purposes, and last week that didn't seem to work great either, and Thomas suggested starting with the use case, specifically this use case, to sort of chart a course or path forward for us.

So I know there's a little bit of frustration. I think you can sense it in the conversation today without reading between the lines a whole lot. But I think that this is perfectly normal for a group like ours in the rather challenging task in front of us. Figuring out where to start can be challenging, so I think I want to say I just wanted to acknowledge that it could be a little bit frustrating, and I appreciate everyone's flexibility as we try and figure out the best way to tackle the phase two challenges in front of us.

Shifting to what Thomas said, I thought his suggestion last week when we were talking about purposes – and I thought that conversation was a little bit challenging, and I thought when

Thomas came out and suggested, “Okay, let’s not try and boil the ocean here and just focus on one purpose, one specific use case and walk that through sort of its entire life cycle, I thought that was a really good suggestion, and after having heard Thomas’ explanation of the worksheet provided, I still think it’s a great path forward.

I agree with what he said at the top. Let’s keep this as narrow as possible. let’s take a very narrowly scoped use case and walk it through start to finish, how we would make that work, what are the gotchas, what are the issues, the policy recommendations that would be needed, the technical challenges in order to make that happen.

Let’s take that one use case sort of narrowly scoped, and walk that through start to finish, and use that as a starting point and a building block to move on to tackle some of the other more challenging use cases we’re going to face. So again, thank you, Thomas. It was a great presentation, great starting point for us, and I think it makes sense as a path for us to move forward from.

JANIS KARKLINS: Thank you, Marc. Next is Georgios.

GEORGIOS TSELENTIS: Yes, very briefly, I’m on the same page as the people who talked within the GAC we thought was a good way to advance our work, because we might not be comprehensive at this point of time, and as Thomas explained, we get the lessons s we go and work through the specific example for all the other cases. So we don’t

need to be comprehensive at this point. I think it's a great start. Thank you, Thomas.

As I reacted also on the chat with a question, I wanted a procedural question to Thomas and to the group, how now do we flesh out more all the questions, all the ABCs, Ds, and what is inside the template? How do we work from this point in terms of procedure? Because I think there is a unanimous agreement that this is the way we should go on.

So more specifically, I asked whether what Thomas presented as safeguards under D could be foreseen in the codes of conduct that we have in GDPR Article 40 if we need an extra [point there.] If we don't – and in general, process-wise, how do we [inaudible] from this stage now that we believe it's a good starting point? Thanks.

JANIS KARKLINS:

Thank you, Georgios. I have Alan Greenberg, and let me also ask, is there anyone who would see difficult to follow the template as used by Thomas for our advancement? Alan Greenberg, please.

ALAN GREENBERG:

Thank you very much. I'm going to echo perhaps in slightly different words what both Mark and Georgios has just said. I think this is a great way to proceed at this point, and I think we can learn a lot from it, but I'm also a little bit concerned about the way forward afterwards. We do not have the resources to deal with every possible use case at this level of detail, so we're going to

have to learn something and then try to generalize as we go forward, or we're never going to finish. Thank you.

JANIS KARKLINS:

Thank you, Alan. Is there anyone who would see difficult to follow Thomas' suggested methodology? Now it would be time to raise those concerns. So I see no request for the floor. May I take then that we could try to follow the template that Thomas has put forward with those elements which you can see on the left column, starting with user groups, then purpose, then lawful basis, then safeguards, then data elements that could be disclosed? And then principles of accreditation and authentication. And maybe during the conversation, we will have some additional elements that we would add as [inaudible].

So I see no objection, so let us try to embark on this methodology, and we'll try to progress in this way. So my question would be, would there be volunteers among team members to do a writeup following this methodology for any other case you may wish to do it? Because for the moment, I think we need to start by kind of favorite cases that volunteers would like to propose for our consideration, and so I expect that after Amr, hands up from team members will be indication of their wish to propose some user case. Amr, please go ahead.

AMR ELSADR:

Thanks, Janis. I just have a clarifying question, and then Thomas, thank you very much for this, this is really helpful and I agree with everybody else who said this would be a great starting point for

our work on this. But Janis, when you ask whether we have concerns or not and whether we're willing to follow this template or use it for the purpose of our work progressing, I just wanted to be clear that I'm all for that, however, I'm not necessarily sold on all the – I guess – I don't know how to say it, but maybe just defining criteria such as having accreditation of user groups, whether this is something that we would want to see in a final policy recommendation or not.

So I assume when you are asking whether you're okay working with this template, that the level of amendments may be to either keep or eliminate some of the items that are listed in the column on the left. Thank you.

JANIS KARKLINS:

Yeah. No, of course, as I mentioned, as we progress, we may discover that some elements are missing or there's something too much we had not talked at all about accreditation, whether we should have or not, what that would entail, and so on.

So for the moment, it is proposed as an element, but of course, the content of the element will be defined as we progress, whether that is feasible or not.

So I have three hopefully volunteers, Marc, Brian and Chris Lewis-Evans. Marc, please.

MARC ANDERSON.

Thanks, Janis. I'm not sure I exactly follow what you're proposing for next steps. It sounded like you're asking for volunteers to

generate other use cases based on what Thomas put together for legal action against cyber squatters. If I understand that correctly, then I think I disagree with that as a path forward. I think that there's a lot more questions we need to answer for this use case, so I think we should focus on this specific use case, working on flushing it out further and answering sort of all the policy questions we would need to answer for this one. Get some lessons learned, find out what's going to work, what's not going to work, before we try and boil the ocean and t registry to apply it to all the other use cases that we're going to have to tackle.

I agree there are lots of other use cases we're going to have to consider, but I think trying to take too broad of a scope to trying to cover too many things now is only going to hurt us. Let's focus on this use case and walk it through.

I know Alan's saying in the chat "I thought Janis was asking for volunteers to work on this use case." If that is the case, great, and I apologize for my lack of understanding. So maybe I'll just ask Janis to clarify what he was proposing for next steps. I apologize if I misunderstood.

JANIS KARKLINS:

No, you understood me correctly. I was asking for volunteers to write up other cases for similar narrow situations or – why I'm saying this? Because we need also some material to work on, and it takes some time.

We will go through in details of this proposed case on when it is on Tuesday, on 25th of June in Marrakech, we will go line by line

and then work it through. But if we want to progress, then we need also to think about other straight forward cases. They may be narrow, they may be slightly more wider, but that we have material to work on. Otherwise, we will not show substantive progress by November, I'm afraid. Brian, please.

BRIAN KING.

Sure. Thanks, Janis, and I would say that we're on board with both. So as I mentioned on the list, we're working with Thomas on both this one, and since we all know this is a very specific use case, we'll work on a couple additional ones, probably start with related to IP, but we fully support the approach of walking this one all the way through first, and we'll learn a lot from that. That'll help us finish that other ones that we can get started right now.

I think our work should be to come up with a lot of – as many as practical – the big picture kind of use cases and purposes that we know folks have for processing this registration data. So let's get a lot of them done in a way that helps contracted parties standardize as much of the volume as we would expect, and I think that should be the way forward. Thanks.

JANIS KARKLINS:

Thank you. I understand that you volunteered to provide a few cases related to IP, and if you would let us know what that might be, that would be helpful. Thank you, Brian. Chris Lewis-Evans.

CHRIS LEWIS-EVANS: Thanks, Janis. Yeah, just agree with what Brian just said. I think it would be good to get a couple lined up in the background for when we have gone through this properly. So I'm quite happy to do that for some public safety use cases. I'll start working on those in the background, and try and get those to a position that anything we decide – the only other suggestion I was going to make was something that Alan Woods said earlier. With those user cases, it might be a good idea if we focus on getting user cases that cover legal bases in all the different legal bases that we have, because that will, I think, help us going forwards. If we've got user cases that cover those, it might help discussions going forward. So that would be my only suggestion. Thank you.

JANIS KARKLINS: So thank you, Chris, for volunteering to write up a few cases. Alan Greenberg.

ALAN GREENBERG: Thank you very much. I can certainly support doing a number of use cases, but I'd like to understand our endpoint. If our intention is to try to document all possible use cases, I think that's an infinite job, and we'll never have the complete set. If the endpoint of this exercise is to get enough use cases in enough different areas so we can start looking at principles, then I can fully support it. Thank you.

JANIS KARKLINS: I think you're right. After examining some of them, or many of them, we will start getting to [inaudible] policy proposals, so that

would be the end. Of course, we do not anticipate every situation that may occur in the future, but at least we will see commonalities coming out of this conversation, and hopefully we'll get on the same page through this methodology.

Amr, please.

AMR ELSADR:

Thanks, Janis. I think Alan Greenberg said most of what I was planning on saying. I agree with him completely. I would ask that – because we mentioned a few use cases. I don't know if by a few you mean three for example, but I'd ask that we try to put a limit on the number of use cases we are going to start working on at this point, at least until we understand how using those will evolve at a later stage.

I think Alan made an excellent point earlier when he said while working on this, we need to be mindful of how this work might be generalized, because like you said, again, we can't anticipate every single use case that's going to come into play. So until we do have a clear understanding of this, I would like if we put some sort of limit on the number of use cases we began working on now. I don't think it's a good idea to spend too much time and effort and divert our attention to this until we understand whether it's going to work out or not. Thank you.

JANIS KARKLINS:

Thank you, Amr. For the moment, I understand we have few from IP and Chris said that he would do a write up also of a few cases. So for the moment, it means we're talking about maximum five.

AMR ELSADR: Okay. Thanks, Janis. Five I think is a reasonable number at this point.

JANIS KARKLINS: So I see no further requests. Then let me draw a conclusion of this discussion. First of all, Thomas, thank you very much. Seems that you have hit – I hope ten in the point that would allow us to start progressing in our common understanding of those building blocks that we're talking about. We will go through this template, and Thomas' case, in Marrakech on Tuesday.

In the meantime, there will be a few other cases proposed by volunteers, and I would offer secretarial support if needed to help in writing up and finalizing those cases. And we were aiming at looking in several of those cases see what commonalities come out and whether we could start putting those commonalities in the text that would constitute beginning of writing policy recommendations that are expected from this team.

So with this, I would like to draw a conclusion to this agenda item unless there is somebody who wants to speak at this moment. I see none. Then let us go to next agenda item, and if I may ask to put back agenda on the screen. So we have face-to-face meeting in Marrakech, and we will follow our proposed agenda unless there is violent disagreement on the proposal.

So, can we get Marrakech proposed agenda on the screen now? So as you'll see on the screen, we have two meetings, in Marrakech, one on Tuesday, 25th and Thursday 27th. The first

meeting will be moderated by Rafik, because I myself will arrive in Marrakech only evening of Tuesday 25. And that particular meeting would be devoted first reviewing the input received from supporting organizations, advisory committees on our call for input. The deadline was 21st, and I'm not sure that I have seen or been informed about any submissions, but today is just 20, and as good students, probably everyone is waiting the last day of deadline.

And then we would devote plenty of time to discuss substantive issues, and as I said, we will start by going through Thomas' proposed case and every associated question related to that proposal.

We also have been reached out by Michael Palage and we're suggesting that similarly to Steve Crocker, he would propose or make a presentation of work he's doing in this respect, and again, the purpose being to stimulate our own thinking on the topic, and then the rest of the day, again, would be devoted to substantive discussions of the building blocks.

Proposal for Thursday is to start by engaging with ICANN Org, hopefully CEO will join us on their engagement with the European DPAs. And then continue our conversation about building blocks of SSID. That would take most of the day, and we would finish with just reviewing our progress and defining what would be next steps and how would carry work forward from Marrakech meeting to next face-to-face meeting in September. So that is proposal.

Maybe it is a little bit vague in terms of very concrete items to discuss, but I think that these things will trickle down from the conversation we'll have on Thomas' case.

So, would this agenda be acceptable, or any comments from team members would be offered? Marc Anderson, please.

MARC ANDERSON:

I'm just noting you have the agenda item to discuss early inputs and a couple people put in I think IPC and ISPCP both indicated that they need more time. BC as well. So I guess just responding to what's in chat, my question I guess is when would be the – I guess a lot of people may need more time, so my question is, when would be the last date that would be needed in order to be ready for a discussion at Marrakech? And if [so many] groups need more time, then it makes sense to shift it out to a later meeting.

JANIS KARKLINS:

Honestly, I didn't follow the discussion on chat, but I think if we're not using face-to-face meeting to the extent possible, then of course, it is really a lost opportunity. Much work can be done through engagement when we see each other, rather than only hear each other. So therefore, I hope that groups will be ready to engage and participate in the conversation, even if that would be kind of preliminary thoughts, and let us advance in our work.

And if we cannot discuss substance, then we simply need to cancel meetings. Alan Greenberg.

ALAN GREENBERG. Thank you very much. The ALAC came to the conclusion that what we were rely asking for in this early input was full guidance on all the answers to all of the questions that we're looking at in phase two. And I understand that the PDP process requires us to ask for early input, but I think we're biting off far more than we can practically provide at this point, and I think what you're seeing here is indicative of that. So I think there's lots of work we can do in Marrakech. Discussing the early input, I think, is akin to trying to discuss the whole phase two in one single swoop, and I'm not sure that's practical at all. Thank you.

JANIS KARKLINS: Maybe I misunderstood the initial question. Was that about consider input received from SOs, ACs? Is it right?

ALAN GREENBERG. I'm not sure if you're asking me. That's a valid thing to have asked for. I'm not sure we asked for that in the request for early input. We really focused more on, do you have any suggestions on how we address all of the charter questions and what purposes are there and what are the legitimate needs, and all of that.

The question identified in the 9:00 to 9:30 slot sounds quite reasonable. I don't think we asked that question, at least I didn't read it that way.

JANIS KARKLINS: Sorry, I'm not sure that I understood correctly your initial then comment. The groups are asking for more time. Was it about SSID, or was it about early input from SOs, ACs?

ALAN GREENBERG. I thought those answers were in response to the early input, which Marika noted is due tomorrow.

JANIS KARKLINS: No, this is the PDP requirement to reach out, other SOs and ACs and ask for early input, their thoughts on the question. I think four meetings ago, we identified what those questions could be, and basically those are charter questions, and it is PDP requirement to give 21 days to provide that input, and we will review whatever input will be provided by 21st of June.

And then if there will be something that we need to clarify, then of course we will identify those issues and ask additional information from other SOs, ACs, or we will take their input into account in our consideration when we progress. So I think for the moment, half an hour should be sufficient, and if that won't be sufficient, then of course, we will find a way how to increase the time needed for consideration of those inputs received.

I see Margie is asking for the floor. Margie?

MARGIE MILAM: Hi. Yes. Thank you. I guess my question for staff is, is it required in this stage? Because this is one PDP, not two, and I think we

probably already provided early input at the beginning of phase one. So I think what Alan Greenberg raised about the breadth and scope of what we have to do to provide the input is what probably is causing a lot of us some pause. But we obviously want to do everything that's required under the bylaws, but since this is [one PDP, is it a requirement?] And maybe that helps us decide whether and how much input we need to provide. Thank you.

JANIS KARKLINS: So I see Marika has responded in the chat room. Marika, could you say that ...

MARIKA KONINGS: Yes, sure, Janis. So what I put in the chat, there's a requirement for the EPDP team to reach out to SOs, ACs, GNSO stakeholder groups and constituencies to request input, but there's no requirements for groups to respond to that. And I think as we discussed earlier on, it's perfectly reasonable as well for groups to indicate that they have already provided input at the earlier stages and maybe refer to that, or indicate that they will provide input on an ongoing basis through the representatives in their group. It's really up to groups to decide whether or not they want to provide that input, but at least from a staff understanding, it is a requirement because this PDP isn't in two phases, so we have a requirement for an initial report, a final report, and similarly, there's a requirement for the EPDP to request that early input.

And I think as I had noted previously as well, that requirement is there from kind of the way PDP working groups have been

structured previously, whereby not necessarily every group that was interested in the topic might have represented us at the table. So again, in this context – and the groups that are interested in this topic are participating, [providing their inputs about it.] There may in any case be some duplication into your statements being provided, but as I said, these are requirements. It's really up to the group to decide if or how they want to respond to that request for early input.

JANIS KARKLINS:

Thank you, Marika. Any other comments. So in absence then, we will follow that agenda with understanding that if need be, we can modify suggested points and then time slots except coffee breaks that I understand is important also to get some fresh air and mingle with the other participants of the conference.

But we'll try to follow a proposed schedule as close as possible. So I see one hand up is Ashley.

ASHLEY HEINEMAN:

Hi. Yes. And I won't belabor the point, but the GAC – we are working on input from the GAC as part of this input process, but that being said, it might be worth me noting that we're not following the questions all that directly, because I think it's already been stated by a lot of folks on a call that this was a much bigger undertaking than I think we had realized, and it pretty much seeks to answer a lot of really hard questions that I think the EPDP has yet to even really dive into.

So that being said, we hope to have input. I doubt it'll be by Tuesday. But there is a possibility we would be open to discuss it on Thursday depending on how we get to our GAC process. I just thought I'd mention that. Thanks.

JANIS KARKLINS:

Thank you, Ashley. It's noted. So if no further requests for the floor, then thank you very much, and let us move to the last item ,and that is Any Other Business.

We had three meetings processing or looking at priority two worksheets. The members of the team who were present at the meeting went through all six worksheets, and they're now finalized for review by the team in general. So please look at those worksheets, and at the end of Marrakech meeting, we will be also talking how to proceed further with the work on priority two items.

We still have two worksheets to go through, and that is on accuracy, and WHOIS ARS. And those worksheets will be looked at after the Marrakech meeting.

I also would like to say that we do not propose a meeting week after Marrakech meeting. In other words, first week of July, we would not have team call, but then starting from second week of July, we would resume our activities, and if need be, we would work with more than one call per week, but if there will be more than one call per week, the second call would be on Tuesday as it was suggested by some team members in response to proposals for priority two worksheet readings.

With this, I would like to go to the last agenda item, and that is closure of the meeting. So we have – no, I see Amr is asking for the floor. Amr, please.

AMR ELSADR:

Thanks, Janis. I wanted to voice a personal concern of my own. When phase two was beginning, or the time leading up to phase two, we were under the impression that the pace of work would be substantially slower than phase one. We weren't aiming for this just because we wanted to take it easy, but because we were not sure that we could continue with this incredible pace and it wasn't something that we could sustain.

And increasingly, over the weeks, I'm becoming more and more concerned, because on many occasions, we haven't been able to submit comments before a deadline. Feels like we don't have the time to possibly even discuss this internally within our groups to our own satisfaction, and if this over time keeps building up and results in draft policy recommendations coming up where the NCSG for example has a problem and it hasn't been considered because we failed to provide input at a certain point, I think this is a bad thing overall for the process. We might end up in a position where suddenly you have groups that are not signing up for a consensus call on a certain recommendation because we didn't have the opportunity to really flesh out our issues.

I'm voicing this concern now because I don't want it to come as a surprise later on. The amount of material that is being produced by multiple calls per week, and then just trying to catch up with the material, watching the recordings of Zoom calls or reading

transcripts, e-mail lists and everything, it's quite overwhelming, and just keeping up with that is a challenge.

Following that up with actually drafting responses and providing input is more of a burden, and I really want the leadership team to take this to heart and consider where you see this going and whether it's somewhere we actually want to go or not, or whether we need some sort of course correction in terms of the pace at which we're tackling multiple issues in parallel.

So I hope you take this request to heart, Janis. Thank you very much.

JANIS KARKLINS:

Yeah. Thank you. We can discuss it in Marrakech at the end of the Marrakech meeting, though I must say, so far we have been having team meetings once a week as suggested, but what has happened, meeting duration has been increased from 90 minutes to 120 minutes.

The smaller team calls on priority two items, so they were specifically said those who want and can join were welcome to join with understanding that this is to fine tune worksheets and then bring those fine-tuned worksheets for attention to the team for further consideration and taking whatever action is needed.

So therefore, so far, we have been thoroughly on the line as we agreed at the beginning, one team call per week. Whether we need to increase or not depends on the progress that we make, because you heard also at the very beginning that there are groups in the team who see this as an absolute priority and expect

that we will demonstrate considerable progress by November meeting.

And for the moment, we are just at the beginning of the substantive work, and I would not even consider that we have shown any considerable progress except we have started out activities, and hopefully we will be able to progress in Marrakech.

But I hear what you're saying, and we will try to fact that in in our proposal for the period from Marrakech to September face-to-face meeting in Los Angeles. Farzaneh, please.

FARZANEH BADI:

Thank you, Janis. I just wanted to – I agree with Amr. Rest assured that this is an important issue for us as well. We don't want to really slow down the process, but I think we need to streamline issues and not work on 100 things at the same time, but work on important issues and streamline better so that we can focus on things, and also if we keep at this pace, then we might be delayed because we don't have time to work on the issues. So just wanted to add that to what Amr said. Thank you.

JANIS KARKLINS:

Yeah. One of the methods how to cope with overwhelming workload is delegation. Think about delegating tasks to one of the group members, and so that will allow us to progress further. Personally, following all things that happen is really overwhelming.

So I see no further requests for the floor. Then that leads me to last agenda item, wrap-up, and if I may ask Caitlin to restate action items that we agreed.

MARIKA KONINGS.

I think Caitlin may have stepped away from her desk for a moment. I'm just quickly scrolling through the notes and action items from today's meeting. But I think the main action item, our main takeaway we had was for those that volunteered to develop and [inaudible] additional use cases and [ideally] share them in advance of the meetings so these can be further reviewed and discussed during our face-to-face time in Marrakech.

JANIS KARKLINS:

Okay. Thank you, Marika. So with this, I would draw a conclusion to this meeting. Thank you very much for participation, and sharing your thoughts. I wish everyone safe travels to Marrakech, and we will continue there. This meeting stands adjourned. Thank you very much.

[END OF TRANSCRIPTION]