

ICANN Transcription
EPDP on the Temporary Specification for gTLD Registration Data Small Team #2
Friday 05 October 2018 at 1300 UTC

Note: Although the transcription is largely accurate, in some cases it is incomplete or inaccurate due to inaudible passages or transcription errors. It is posted as an aid to understanding the proceedings at the meeting, but should not be treated as an authoritative record. The audio is also available at:

<https://audio.icann.org/gns0/gns0-epdp-gtld-registration-data-specs-05oct18-en.mp3>

Adobe Connect Recording: <https://participate.icann.org/p2g9i5rbs7h/>

Attendance is on the wiki page: <https://community.icann.org/x/7gO8BQ>

The recordings and transcriptions of the calls are posted on the GNSO Master Calendar page:
<https://gns0.icann.org/en/group-activities/calendar>

Coordinator: Recording has started.

Terri Agnew: Thank you. Good morning, good afternoon, and good evening, and welcome to the GNSO EPDP Small Team #2 Meeting, taking place on the 5th of October 2018 at 13:00 UTC. In the interest of time, there will be no roll call. Attendance will be taken by the Adobe Connect Room. If you are only on the audio telephone, could you please let yourselves be known now?

Thank you. Hearing no one, all documentation, and information can be found on the EPDP Wiki space. There is an audio cast and view only Adobe Connect for non-members to follow the call. So please remember to state your name before speaking. Recordings will be circulated on the mailing list and posted on the public wiki space shortly after the end of the call.

Thank you, and over to you, our Chair, Kurt Pritz.

Kurt Pritz: Hi, everyone. Thanks for joining this Friday call. We're up to four meetings a week so that's pretty exciting but also an indication of everybody's dedication to the issues. So thanks for that. For the small group meeting, this is our second one as you can see in the upper left hand corner of the document that's displayed and is scrollable.

In the first meeting, I think this document that this team put together was particularly helpful, as you can see, and you might have read yesterday that it lists the charter questions to be answered and in some cases, those cover or don't cover the issues we need to. But I think in this case, it particularly does. The pertinent section of the GDPR, in this case, Article 2, any input from in this case U.K. commissioner's office. But we usually include any relevant comments we've received, like from the European Data Protection Board and then the relevant temp spec sections, which in this case are sections 2.1 and 3 that govern how geographies affect the implementation of GDPR.

And then the final section in this was the comment we received either in early input, or the triage document, or something like that. So there was a pretty good discussion of this issue on this and so that's why we thought it necessary to have a small group discussion specifically on this issue. And so you can see in the participants list, we have participants from every constituency or stakeholder group except for the registrars. So I don't know if that will change over the meeting, but a good group and actually a slightly bigger group.

So I'll go over how we're going to go about this, but I see Hadia has her hand raised. So I'll let her go.

Hadia Elminiawi: (Unintelligible) can't hear.

Kurt Pritz: Hadia, I want to say two things. One is that you're always kind of muffled, more muffled than you would like to be. So I think you should look at your setup going forward and either get a new headset or something but there's something about your setup in particular that makes you a little difficult to hear. So when you come on, I turn my sound way down and that helps me out. But I'm sure you'd want to fix that.

And Andrea is saying here we can call out to you if you want, but it's an issue every meeting and I think it makes you less effective than you really want to be, or especially as you can be. So think about that. And two is before we dive into the substance of it, I'm going to turn the meeting over to Gina Bartlett from CBI who ran the last small group meeting and will run this one. And so before you start, Hadia, and you're welcome to be the first speaker, in my opinion, the charter questions sort of cover the field for us here and if we look at those questions, we can get to maybe a good discussion of the issues.

But I'll leave that up to you guys and allow you to bring up issues, as you want. So I apologize to you, Hadia, for cutting you off but you'll be the first one in the queue when we start. And I want to let Gina do any further introductions of the material or start the discussion. So Gina, thanks very much for joining, fellow Californian, 6:00 in the morning starter. Please go ahead.

Gina Bartlett: Hello, everyone. It will be nice to hear your voices as we continue on. This is Gina Bartlett from CBI and I'm going to facilitate the conversation. And I will go to Hadia first to frame up the comment on the data stuff. But what we thought we would do is start with the charter gating questions as a way to really focus in and identify and concerns. I know we have the reference materials from the early input. I think it's from the triage document.

And then we're really going to ask you to think about what are some options for addressing the data processing that meets the range of interest for all of

you for providing the data and allowing for data processing, but at the same time considering the implications of those activities in light of the GDPR for the contracted parties.

And then time permitting, we may actually go the temporary spec and see if you have any specific feedback on that depending on the outcomes of our discussion. And would like to consider, if we get stuck at all, maybe there's some other sectors that we can look to, for example, to help inform our thinking.

So that's the kind of broad sketch for what we were envisioning for this small group discussion. So unless there's any questions on that, I will go back to Hadia to frame up the comments she wanted to make on data subjects to help inform our answers of the gating questions?

And Hadia, I might recommend you try to speak slowly just because of the quality of the sound. It might help us to hear you better. Thank you.

Andrea Glandon: Gina, this is Andrea. They have not connected her on the phone yet. So I just want to let you know that that's not done yet.

Hadia Elminiawi: Thank you, Gina, and so actually, my part here (unintelligible) data subject. (Unintelligible) possible options for the data subject. One is to (unintelligible). (Unintelligible) the data subject has to be a resident of the EU (unintelligible) country. Third, (unintelligible) resident (unintelligible) and this is (unintelligible) geographic location. Five, a data subject that is located anywhere (unintelligible) in the EU. So how about if we define our data subject (unintelligible) the above stated questions. So that's my thought. Thank you.

Gina Bartlett: Thanks, Hadia. That's crisp for the data subjects. Thanks for that. So moving on to the - we wanted to talk a little bit about the gating questions to understand the perspectives, and interest, and concerns around the data

processing. And so they're listed in our middle panel here. Question 1 is should registry operators, registrars be permitted or required to differentiate between registrants on a geographic basis. And Question 2, is there a legal basis for contracted parties to differentiate between registrants on a geographic basis.

Anyone wish to kind of kick off the morning and speak to the points? And I see there's some chat going on. I'll pause and look at the chat. Hadia, do you still have your hand up? If so, Margie - good morning, Margie (unintelligible) kick us off the next comment please, and then Thomas, and Amr.

Margie Milam: Sure. I believe that we should work on a policy that differentiates between the type of data that is covered by GDPR and the type of data that's not. And so understanding that GDPR has a unique application. It's not just the residence of the EU, as an example. It applies to companies that are in the - that are processing in the EU and I'm over simplifying the discussion, but I think it's very important to make the distinction because it enables each country to be able to apply their rules and ensures that we're not applying these principles in an over broad manner that might be inconsistent with the approach taken in the country where the residents are if they're not in the EU, as an example.

So that's why the BC has put forth in their comments that it's very important to distinguish between whether a registrant is in the EU versus outside the EU and try to focus more on having a policy that is more applicable to where the registrant is located.

Gina Bartlett: Thanks, Margie. Thomas?

Thomas Rickert: Thanks everyone. Good morning, good afternoon, good evening. I think that this again is a question where we need to make a distinction between two layers. The first layer is what's required to be compliant with GDPR and the

second layer is the policy layer, and we can only deliver on the policy once we have established compliance. So on the first part, it's not only about where the data subject resides. So GDPR is applicable to European data subjects. That's one thing. But then it's also applicable to controllers and processors that are either based in the EU or that are offering their services to data subjects in the EU. And that doesn't even go as far as requirements stating that they need to have actual customers.

But if the registrar, for example, offers their services at the global level then it's very likely that GDPR requirements need to be fulfilled. If Europe currently has accepted or if they are profiling IP addresses or data otherwise obtained from visitors of their website, right. So I think in this global environment, we would likely only have no applicability of GDPR if you have a, let's say, IDN TLD offered through an operator that is just offering services to a very specific target group in languages that are not spoken in the EU.

So inside that, I think that if we look at all the requirements or the clauses that make GDPR applicable, it potentially makes the scope of not making GDPR applicable relatively narrow. But I guess the policy question that we should ask ourselves is do we want fragmentation in the marketplace? Do we want operators to be forced to run different systems to make a distinction between customers that fall under GDPR and those that don't, even though at least for part of their business, they need to have GDPR compliance facilities anyway, right.

So I think ICANN is all about global applicability, about avoiding fragmentation, about interoperability of the marketplace. And I think if we take that then I think the policy decision should likely be that a registry operator should apply the same standards to their entire customer base.

And let me conclude by saying that we also need to take into account situations registrants change their contract to us. And I think in that case, we do not yet have the particular specifications at hand to allow for really solid

tracking of who belongs into one bucket and ensure compliance. So that's my long plea for keeping it unified and for making the policy decision that we apply one standard throughout the globe.

Gina Bartlett: Thank you, Thomas? Amr?

Amr Elsadr: Thanks, Gina. This is Amr and yes, I think Thomas covered I'd say about 95% of what I wanted to say. So definitely agree with him on everything. I just wanted to add that from a policy perspective, not necessarily from a GDPR compliance perspective, this is not the first time the issues of compliance with privacy and data protection laws has come up at ICANN. This is a discussion that's been going on for years and years. But we haven't had a positive response in terms of trying to tackle this until suddenly there are issues of liability that will affect both ICANN as a controller and its contracted parties.

We need to be a little forward-looking when working on this policy right now. We need to try as much as possible to make it not only compliant with GDPR but possibly other - the data protection (unintelligible) and laws elsewhere, and others that might come up. I think the last thing any of us want is to have to go through another rushed exercise to deal with another temporary specification once liability issues occur in other territories or other jurisdictions apart from the EU.

So we certainly need to be compliant with GDPR but the policy - I don't think the policy should be restricted to this. And as Thomas mentioned, there are many implementation issues that would also - I want to say require but would certainly be a lot more straightforward for implementation across the board to be compliant with whatever policy we do come up with. Thanks.

Gina Bartlett: Amr, I'm sorry, this is Gina Bartlett. I didn't quite understand the last bit when you said I don't think we should be limited to this. Could you just elaborate? I'm sorry if I'm just not tracking.

Amr Elsadr: Okay. So this is Amr again, Gina. The issue of privacy and data protection versus let's call them other third party interests is an issue that's been ongoing in ICANN since it was first created 20 years ago. This isn't new. But there's been very little progress made on this. And suddenly, 20 years later, we're faced with this temporary specification with a deadline to complete an EPDP before the temp spec has to be replaced by a permanent successor.

This is not an ideal scenario and I don't think we want to go through this again in the event that other jurisdictions, apart from the EU, start enforcing their own privacy and data protection laws. So I don't think we want to have to go through this whole process again. It's rushed. We're on a very tight schedule. As Kurt noted, we're up to four calls a week now. And so I think we need to be a little forward-looking in terms of developing policy recommendations.

So I think this is a strong argument against requiring contracted parties to differentiate between registries on a geographic basis. I hope that helps clarify.

Gina Bartlett: It helped a lot. Thank you so much. I appreciate the elaboration. (Unintelligible) can we go to you.

Diane Plaut: Hold on. Oh. Yes. How are you? Good morning everyone. I very much align with what Thomas just said on a number of reasons - for a number of reasons. In complying with GDPR there's important principles about territorial scope, specifically in relation to where the data subject sits, as Xavier has said. And when you're looking at where the data subject visits, as he's explained, it's specifically encompassing the fact of whether it's an EU resident or a citizen outside of the EU.

But we really need to focus on where the processing activities are happening as well and whether the controller is sitting - is an EU entity or in fact, has an

established scope of ay within the EU. And that territorial application under 3.2.1 is extended broadly because, in fact, the controlling or processing activities will also apply to controllers or processors not established in the EU where their processing activities either relates to goods or services or even monitoring of the behavior.

So that means that when registrars and registries established outside of the EU provide domain registration services, it has a fairly broad application. So to Thomas' point, we can't know right now - there's such a broad disparity in data protection laws globally and the GDPR is very much right now the baseline in the world. And it is the body of law that is an issue here and it provides the appropriate baseline for us to be able to establish a framework that makes a lot of sense.

And so I think that to apply it in this manner without as much focus on segmenting out data subjects in a way that would limit that application of that framework would really not provide us with the flexibility and the base that we need to allow a fluid system that functions on the practical and commercial level. So those are my thoughts at this juncture.

Gina Bartlett: Thank you, Diane. So I'm going to move through the queue here, Kristina, Hadia, and Margie. And the last few speakers, we've heard quite a bit of support for the concepts that Thomas provided. So we want to hear your first hand perspective but if you could also speak to how you feel about those proposals that would be great.

Diane, I just heard from you. Kristina, hello.

Kristina Rosette: Hi. It's Kristina. Gina, I'm sorry, I didn't catch that last part. How do we feel about which specific proposals? I want to make sure I address...

Gina Bartlett: I think the proposal that Thomas outlined around - and then Diane just elaborated on the requirements to be compliant with GDPR. And then I think

the proposal that people are - so it's in support, if I understand them correctly, is that the registries should apply the same standards across the board for the data processing.

Kristina Rosette: Okay. All right. Still mulling that one over. But on behalf of the registry stakeholder group, and I do want to let everyone know that I believe Emily Taylor is going to be joining momentarily, so we'll then have - oh, and here she is. So we'll have registrar stakeholder group as well. But from the perspective of the registry stakeholder group, registry operators should not be required to differentiate between registries on a geographic basis.

I think you have three considerations here. Is one as I think we are all in agreement here, the actual location of the registrant is not alone dispositive of whether or not GDPR applies. Two, you have the very significant liability implications of being wrong about a determination of where the registrant is located. And finally, and I think perhaps really importantly for the contract - for the registry operators, is just the practical implementation considerations.

And I just want to take the time - I think it's helpful for you all if I just go back to the very short articulation of the registry stakeholder group goal. The registry stakeholder group believes that any consensus policy developed by the EPDP much provide a clear path for compliance with the GDPR, be company reasonable and implementable, take into account our differing business models, and does not inhibit innovation. And it's that implementation part that I want to provide a little bit to flesh out a little bit.

Because, for example, there are a number of registry operators and a very significant percentage of the dot brand registry operators who outsource the technical back end registry services to a third party. So you can easily have a situation in which the registry operators' controller is not in the EU, the registered name holder is not in the EU, but the back end provider is. And as a processor on behalf of that controller, you would have the applicability of GDPR.

You have a similar scenario on the registrar side and I'll let Emily speak to that about in a little bit more detail. But you have a tremendous reseller network in the registrar community. So you could certainly easily have a situation in which all of the other parties, the registry, the registrar, and the registered name holder are all within - outside of the EU but the reseller is within the EU. So you would then have GDPR obviously become applicable.

So I think there are some real scaling issues in just thinking about all of the various scenarios. I think in order to avoid inhibiting future innovation and to be consistent with the broader purpose of why we're here, the registries feel very strongly that we should be required to differentiate between registrants on a geographic basis. And if I may suggest, Emily has got her hand - oh, I see Rahul as well, but I was going to suggest, Gina, that perhaps we could hear first from the folks who haven't spoken.

Kurt Pritz: Gina, I see you're on mute.

Kristina Rosette: I'm done.

Kurt Pritz: Yes, I was talking to Gina. She's on mute.

Gina Bartlett: Sorry, everyone. I had to switch lines so I missed the close of Kristina.

Kurt Pritz: So I think Kristina's comment was real good. I'd like to kind of go back and forth though, so rather than calling on Emily right away, let's hear from Hadia, and Margie, and then Rahul, because they're likely to provide a counterpoint to what Kristina said, and then Emily can probably best respond to all of that.

So go ahead, Hadia, and then Gina, take back over.

Gina Bartlett: Thank you.

Hadia Elminiawi: (Unintelligible) as well. So from an (unintelligible), I don't have any (unintelligible) to have the (unintelligible) permissions that (unintelligible). From our (unintelligible), I'm not sure (unintelligible) to do. However, (unintelligible) registries, registrars are (unintelligible) to speak to (unintelligible) point. What I'm trying to (unintelligible), well, actually, (unintelligible) I have no (unintelligible) here. Because (unintelligible) applies to the (unintelligible) data or the data subject (unintelligible). The (unintelligible) really depends on our (unintelligible) and implementation of the (unintelligible) profession of the personal (unintelligible) restricted for the (unintelligible) and articulated by (unintelligible) the professional (unintelligible) data. (Unintelligible) the profession recorded by the tabulation should apply to (unintelligible) the relationship (unintelligible) personal data.

It's (unintelligible) personal data of data subjects (unintelligible) published (unintelligible) should also be subject to the same (unintelligible). So I don't (unintelligible).

Gina Bartlett: Hadia, we are unable to understand you. I'm very sorry. I don't know if you want to type in the chat or the staff have been trying to call you. But we cannot understand you. I'm so sorry.

Kurt Pritz: All right, let's go on to Margie. Hadia said she's going to type her comment in.

Gina Bartlett: Okay. Thanks. Sorry about that, Hadia. Margie, go ahead.

Margie Milam: Sure. Thank you. This is Margie. I wanted to comment on what Amr said because I'm not sure if everyone on this call has been involved in ICANN for a while but there was actually a recommendation, a consensus recommendation that came out of something called the EWG a few years ago. And they came up with what they call the rules engine, which was the approach of being able to apply the applicable policy for privacy laws on a geographic basis. So if you were in the U.S. you would have the U.S. privacy

laws apply. If you were in Canada, it would be the Canadian ones, using a way of ensuring that the compliance was geographic in scope.

And that was actually a consensus position. It was not adopted by ICANN Board or the GNSO. And that's effectively what kicked off the PDP process for the RDS a few years ago. So this issue has been explored and that was a recommendation. And the reason why I think that's actually a good recommendation is because everyone recognizes that when GDPR was adopted, they didn't take into account how it would apply to the domain name system, right, to the ICANN world.

And so a lot of what we're trying to do is trying to apply principles and not really have - we don't really have a good understanding of how it should apply. But now that we've seen this, what you will see, I think, and we are already seeing indications of it, are that other countries might come up with laws that are more specific and applicable to the domain name industry, and you've seen - loaded some proposed legislation, for example, in the United States.

And so I think it's really short sighted of us to just focus on GDPR because I think each country is going to have a little different take on it and there's a lot of public interest reasons for why the domain name systems should have some elements of WHOIS public. And if we go down the path of not requiring compliance with the other laws then we're just going to have to change this whenever the laws change and I don't think that's necessarily a good result for us. So that's my - kind of my thinking on why I think it makes sense to just have the policy applied to where GDPR is intended to apply and then work on a concept, a rules engine that would work going forward. Granted that that's not a short-term implementation by any means and, you know, part of the policy could be something like explore how to, you know, how to implement something like a rules engine and have that be a long-term project because I think that in the end we're going to have to get there as these countries come up with different rules that apply and may be inconsistent with GDPR.

Gina Bartlett: Thanks Margie. I'm going to go to Rahul Gosain next.

Rahul Gosain: Yes good evening. Am I audible? Am I audible?

Gina Bartlett: Rahul Gosain yes, thank you for checking.

Rahul Gosain: Okay so first of all I know I'm going present a contrarian point of view and I'm not going to be very popular when I'm going to say this but I fully throw all my weight behind the comments which Margie has just recounted before me. And I too also firmly believe that, you know, contract party, contracted parties may be permitted to differentiate between the registrants on a geographic basis. In fact, you know, they should be required to apply the applicable policy only to where it is intended to apply. And I don't think that it should be applied on a universal basis in a same manner for all the reasons which Margie has very well recounted before me. And I firmly feel that in a framework like the GDPR which is meant for European subjects only and universal application of GDPR is perhaps beyond the limit of ICANN and perhaps much less that of the EPDP. However that having been said I fully endorse, you know, the temp spec and the Section 2.2 of the temp spec draft which was circulated on August 23rd and feel that EPDP team should aim to maximize consistency and predictability in the application of gTLD registration data processing.

However they should be do so but while duly considering potential conflicts with a variety of applicable data protection laws worldwide and not just the GDPR. So this has possible other implications also if I may put it on even on things such as building the (unintelligible) and it has the potential to positively impact the gTLD business negatively also especially, you know, in case of a universal kind of a single type of uniform application it is possible it may prompt some of the countries to come out with some kind of local advisory that are applicable in their jurisdiction which will sort of preclude people from booking domains on the gTLDs and certainly require them to book it instead

on the ccTLDs days and which will not be good for building the digital device. So I personally strongly feel that I'm totally against the uniform single one size fit all kind of application of the data processing requirements similar to what was being done for the European data subjects as required by the GDPR to other subjects to whom it is not applicable to, so thank you.

Gina Bartlett: Thank you. I'm going to go to (Emily) and then maybe we'll check in before I get back to Thomas. Go ahead (Emily).

Emily Taylor: Hi I'm just checking if you could hear me okay. Sorry to join the call late.

Gina Bartlett: Yes thank you for checking.

Emily Taylor: Okay so as I did unfortunately join late please accept my apologies if the points have already been made by others before. It seems just from listening over the last 20 minutes or so that there - that we're trying to kind of cope with policy versus practical implementation issues. And I was fortunate to catch the remarks of Kristina which I fully agree with and also mindful of our scope here with the EPDP which I understand as sort of trying to make the temporary specification permanent and not a blue sky redesign of the entire data collection publication and processing. Obviously it's a bit like getting directions in Ireland. You know, the saying is well if I tried to get there I wouldn't start from here. And I don't think any of us would start from here with the current status of the WHOIS or RDS.

So I've been thinking and talking to colleagues about specific geographical implementation whether that's feasible or even desirable and there are three reasons from a policy point of view where I think it's - well I've become convinced that a single approach is desirable. Firstly most importantly colleagues have pointed out that many countries are busy implementing their own privacy laws and a (unintelligible) house a few months ago we had a really fascinating session on privacy laws in the Gulf. And that's just one region where a lot of the states are bringing forward their own proposals on

the protection of privacy partly because they want to have - to set themselves up as a – an (unintelligible) trading partner with the CEU by the way.

And of course the second issue is the GDPR and its deliberately long arm jurisdiction which means it will cover European individual's data broadly speaking no matter where in the world they' created. And I'm going to come back to that when I talk about practicalities. And the third issue from a policy point of view is that we're sort of really stuck with the ICANN model because most - I heard what Margie said about, you know, the desirability for some data to be to be made public in a public register sort of way.

The trouble that I keep hitting up against is that most public registers are actually enshrined in statutes they are demanded by a law of equal status to something like the GDPR. And that means that's a very clear legal obligation and protection therefore to the publishers and processing of that data. I thought that Kristina made excellent points about, you know, reminding us that any outcome from our discussion should be commercially reasonable and implementable. And there are many reasons why the current setup really works against the contracted parties and others in this environment because there's a lot (ocapacity).

It's not really clear, there's no real way of indicating whether somebody's a person or a company. There's no really reliable way for resellers to be recognized in the register system. And that makes it very difficult as Kristina pointed out to really trace through, you know, where and how is the data being processed.

So apologies for the long intervention but in summary I do think and I've become convinced that the only feasible and commercially reasonable position we can be in at the moment is to implement the sort of the temporary specification globally but I think then, you know, trying to think forward about what policy development might be done in the future there might well be sort of policy development processes aimed at recognizing for example resellers

that could very much help in identifying and being able to pin down as, you know, properly European individuals in the system so I'll leave it there. Thank you.

Gina Bartlett: Thanks (Emily). So Thomas well maybe I'll go to Thomas. Thomas can you help us bridge? I mean what I hear is that I'm just looking back at the charter questions. What I hear is differing viewpoints on the first question around whether the contracted parties be permitted or required to differentiate on a geographic basis. And I'm just wondering, you know, how we bridge that across the parties around, you know, those who are looking for access but, you know, considering the constraints and the cost to the contracted parties is their way to make that work? And then also secondly looking at the second question on the legal basis for contracted parties to differentiate it would also be interesting to hear some thoughts about that. So I'll go to you Thomas.

Thomas Rickert: Thanks very much. I have to confess that I have a hard time trying to reconcile the differences of the positions raised. If I understand understood everyone correctly we've heard overwhelming support, one unified system to be applied at the global level and we had heard concerns from Margie and Rahul Gosain which were based on the EWG report which allowed for different approaches for different jurisdictions. Now on the EWG report for those who remember that EWG was not the community initiative. And this is why it gets a lot of criticism at the time.

Also the approach and the outcome were pretty much disputed by many in the community, most prominently, Stephanie Perrin worked hard on the team and she issued dissenting opinion at the time. So we shouldn't take the findings of the EWG paper necessarily as something that should be allowed for this group.

Lower data protection standards to be a remedy for bridging the digital divide, I'm not quite sure whether I'm convinced by that point. Let me try to offer a different perspective on this. ICANN has done a lot over the last couple of

years to strengthen registrant's rights. Now for a couple of years we have seen various attempts to make researching more visible in the marketplace. We have the registrant rights and responsibilities paper, that document that needs to be made available to all registrants at the global level. And I find it quite difficult to explain to registrants in certain jurisdictions that they don't have certain rights that registrants from other jurisdictions have. And that is the beauty of policymaking that we can actually come up with a cohesive standards for registrants around the globe.

Now let's forget the acronym GDPR for a second. What it actually boils down to when it comes to the user is that, you know, registrants need to inform the registrant about what data is collected, what's done with it before the processing starts. And do we really want to make that information to users look different depending on what registrant wishes to work with or what reseller they choose to work with? So that basically may would mean that some users have a right to replication of that data, others don't. Some have a right to get information from the registrars on what data they have on them, others don't. Some have the right to get their data erased, others don't. The public display of data will be different and all that I guess will lead to presentation and a lot of distrust in ICANN and the contracted parties at the global level which is why I would caution not to pursue that path but to take stock of what we have, where we are at the moment and then maybe do a little consensus call on what route we want to take. Thanks.

Gina Bartlett: Thanks Thomas. I don't see anyone's hand up at this point. Are there examples, like what examples from other sectors might we learn from or help to practice that? Any thought from that? Rahul Gosain?

Rahul Gosain: Well not entirely on that spot on in terms of examples from other sectors. However what I would like to add just to - as a counterpoint to what Thomas just said is that it's also an issue of sovereignty, so I mean the right for one country to exert its laws is only in their own jurisdiction and normally in the other jurisdiction the laws of the other country take precedence. So I don't

think that the consistent and uniform application of the GDPR framework equally across the board for even for nationals of other countries to whom it does not apply is a good idea. And I also equal the sentiments of Margie earlier in terms of what she has said in terms of the consensus which was reached for the rules engine and, you know, a nuanced application of the of the GDPR in a way that it covers only those data subjects on which the law is meant to apply.

So I just wish to repeat myself when I said that we as ICANN it does not - it is much beyond our remit to be deciding how we wish to apply this to the (unintelligible). GDPR is a law which is applicable only to European data subjects so we should keep it at that and we should mimic the application of it from the real world into the domain name system in exactly the consistent manner. And I personally feel that this is much beyond our remit in ICANN and much less that of the PDP to overextend and over apply the GDPR to beyond to those whom it is applicable to. Thank you.

Gina Bartlett: Thank you Rahul Gosain. Margie and then I see (Emily).

Margie Milam: Sure and I think that kind of the reason why I'm struggling with this is because we all as companies have to comply with the laws that apply to us. And so I don't find it persuasive to say that just because it's costly to do it to make the distinction that it should be done. If you're doing business in a country where their laws apply and it's going to cost you money to offer those services you make the business decision that I would like to reach residents in this particular place. And therefore I will apply whatever rules apply so that I can offer those services. And so I think that it's very simple, overly simple to just - simplistic I mean is what I mean to apply it globally because we're going to get to a point where there's going to be a conflict. And, you know, and rather than just assume the GDPR is going to apply everywhere and will be consistent with all the other laws, the policy that comes out of this group, you know, is going to be questioned whenever, you know, the next law comes out that takes a different approach and then what do we do? And I just can't, you

know, I don't like the thought of having to go through this whole process again and it's been very, you know, it's a lot of work and thought.

And so, you know, unless there's, you know, so that's why I wanted to bring it back to the rules engine concept. Even if it's a longer term implementation and suggestion I think that it could be part of this group to make the policy recommendations that, that be explored and to see whether there's a way to do that because then that way you would at least get the, you know, the applicable law that applies to the particular registrant. And so that's kind of my thought. I just really feel like we're just setting ourselves up for another EPDP when the next law comes into place that's inconsistent with GDPR.

Gina Bartlett: And, you know, Margie before I leave you if (Emily) could just give us another minute, not everyone in this group was in the other small group on legal and natural persons which is going to come to the full team. But I'm wondering for everyone's benefit the recommendation out of there was basically to allow disclosure of data for legal entities. And does that inform this group at all or the thinking on how this policy should shape? I don't know Margie you were in that group and I don't know if that makes any difference to you...

Margie Milam: Yes.

Gina Bartlett: ...or if I'm overreaching on the connection there.

Margie Milam: Sure. And it does because in that group we came up with the recommendation we recognized that if we were to make that distinction between natural and legal person that it's not a fax solution. That it's, you know, is something that would need to be thought out and a long implementation process. And, you know, and so it was a recognition that there would be a different track if you will for resolving that issue. And so that concept could apply here if there was agreement that there should be at least an exploration of a rules engine concept especially because we're going to – when we get to the point of implementing RDAP that you probably could

make those differentiations. And so that's why I think that that discussion's useful. And (Emily) to your comment about, you know, what our goal here of this group I don't think I agree with you that it's just to confirm the temporary spec. I agree the temporary spec was adopted because of GDPR. I mean that's obviously clear but as we're looking at all the policies that we're developing we're trying intentionally to not make them GDPR specific.

And so that's why, you know, I feel that considering the concept of a rules engine that, you know, it tries to at least, you know, apply the rules as the - if you think about it from the registrant point of view, if they're in, you know, the US they may not expect that GDPR is going to apply to them. They may have different expectations. And so the rules engine essentially would be designed to, you know, be more consistent with what the registrant in that particular geography would expect given the legal framework that they, you know, live in.

Gina Bartlett: Thanks for that Margie. And I appreciate the concept of exploration component. (Emily) thanks for waiting.

Emily Taylor: That's a pleasure. Thanks for giving me the microphone again. Just a very quick one and I think Margie and I have had some crossed wires on what I was talking about or what I was intending to say on the purpose of the MPP. I only really meant I don't I - you know, I'm not intending to say that we're just crossing something for GDPR specific. And I do see the dangers in that only that our job isn't to completely re-engineer all the ways that the data is collected and every single aspect of what used to be called WHOIS. In other words that we're not doing other, you know, we're not doing for example designing the access model. There's another process for that. And if I mean the way I see it working is that if this group sees that there could be useful policy developments that go on and follow-up from our work that that could be part of our recommendations. And I don't really understand the point about laws that could be inconsistent with GDPR affecting certainly the publication of WHOIS because now we have - we've kind of gone to a very, very

conservative position where essentially as we all know we have a fully redacted public WHOIS. And therefore it's hard to really imagine future laws on privacy that would conflict or cause difficulties from that but I might well have misunderstood Margie's point.

You know, and just actually going back to Gina's suggestion that we try to think about parallels in other industries or things that might help us sort of free up our mental models a bit, the one that occurs to me is on car safety so just bear with me for a second. There's no real unified car safety law. Each country does its own thing. And what the - and of course manufacturers are based all over the world and are subject to local laws but also the laws wherever they're there selling their cars.

And so if you think about, you know, how the situation was with car safety belts when I was a young person was the most cars were built without safety belts certainly in the back. And now they're everywhere because there's been a sort of race to the top in that manufacturers can comply with the most stringent safety rules. And actually everybody in the world gets that benefit because it's actually not cost-effective to take out safety features if they're required somewhere.

And so in a way I think that the policymakers responsible for the GDPR were trying to create a set of laws and principles that would make a race to the top in terms of dealing with individuals and data privacy which the European, you know, legislation recognizes as a fundamental human right.

So although I do hear the point and have a lot of sympathy for the point made by Rahul Gosain and Margie that it's sort of overly simplistic to apply one set of rules globally I think that at the moment we're struggling with the state of the data in the state of the data collection and particularly the fields that we have at the moment. And given the status quo it's not really from a liability point of view it's not really acceptable to sort of implement different versions of the public WHOIS in my view in different geographical regions. It's - I

would hope for at some point in the future where we're better able to capture data that is meaningful in today's and tomorrow's market rather than something designed in the 1980s. Thanks a lot.

Gina Bartlett: Thanks (Emily). Amr?

Amr Elsadr: Thanks Gina this is Amr. I just wanted to address one specific point they came up a little while ago, and that's the issue of cost of implementation not being a valid or being a less valid, you know, reason to, you know, sway the politicians one way or another. I disagree with that. I think cost is, you know, central to this whole conversation.

You know, apart from a registered nameholder's, you know, cost of not - cost of not having the rights of privacy but cost of implementation of policies by ICANN, by its contracted parties is significant. I think the cost for example for trademark holders or law enforcement agencies to access redacted data is something that is also significant so I would also acknowledge that.

What we have here is, you know, arguments going back and forth trying to shift these costs from one actor to another. So the question or the issue isn't that cost is not an issue or it should not be considered. The question is, you know, what should the status quo be? I mean we have right now according to the temp spec we have data elements that are redacted. And, you know, and there's a cost to that by certain actors. And, you know, a lot of those actors are trying to shift these costs over to other actors, namely ICANN and its contracted parties and registered name holders. So I just wanted to point out that I think this is a very valid argument and should be taken into consideration at any point in our future discussions. Thank you.

Gina Bartlett: Thank you Amr. In the chat I'm noticing Kurt this might be something for you to speak to. I'm noticing there's a lot of questions around the small group and its relationship to the full team and my understanding is that the idea here is in the small groups is to flush out some of the conversation and then if we're

able to make some recommendations back to the large group that's very helpful as well as summarize the discussion that's been had in the small group. Can you just confirm that's the process Kurt?

Kurt Pritz: Yes it is. No sorry, I want to say a couple of things more. First on the process yes to the extent, you know, this group can come up with or develop specific, you know, policy recommendation for the group to review that would - that's the desired goal. But absent that, you know, recapturing the issues that were laid out a succinct way so you can expedite the conversation of the larger group would be plan B. So that's that. And, you know, we proved in our face to face meeting that the small group was a good way to develop solutions faster than working through the big group. But then, you know, of course anything stated here either in the form of a policy recommendation or just consolidation of the issues has to be passed on by the big group.

So the – I gosh let me gather my thoughts. So what I'm hearing a lot and have a lot of comments but I think, you know, I'm taking to heart what Margie said about the future development of additional privacy regimes and dealing with that and also her relating - well we did what was done by the previous group that called for, you know, an exploration of how a natural and legal persons can be distincted if that's a word.

And so, you know, I wonder if that's the path here with the idea, you know, there already is sort of a clash between GDPR and China regulations. And those are sort of naturally solved by the China regulations themselves. But, you know, there's bound to be a clash of future laws and so, you know, also understanding that it's really difficult for contracted parties to commit, you know, in this accelerated process to develop systems where they don't know what the cost is and whether those systems would adequately address the legal risk or the liability risk. You know, I wonder if the path home here is for this group to say something along those lines that, you know, that says, you know, distinction about where GDPR applies is, you know, necessary and useful and that, you know, and I'm kind of taking off of what we did earlier in

the week, but that ICANN and registries and registrars who would make educational resources available to help registrants understand the implications of the laws and also help identify spots in the registration processes where it's - where problems exist in making this identification and it could be solved and that then there'll be consultations after that to try to solve that problem and solve it not just within the remit, not within the umbrella of GDPR only. Gosh I'm botching my metaphors but, you know, with the idea in mind that as future privacy or anti-privacy laws are passed that this mechanism could take that into account. So really briefly I wonder if the way home from here because in this accelerated schedule I don't think we'll be able to solve the operational and liability difficulty is that we commit to working toward, you know, that we're going to commit resources to working through this and we're going to let – ICANN's going to commit resources to this and then the these different parties in here will work towards fashioning a solution. Sorry everyone. I'm done. Thanks very much Gina.

Gina Bartlett: Thanks for the suggestion Kurt. Kristina I see your hand up. Go ahead.

Kristina Rosette: Yes Kristina Rosette. Kurt that's a really intriguing idea. I'm trying to kind of connected to the charter question and I'm not able to kind of mesh what you've just said to answer in the charter question so I guess if you could elaborate on that a little. Was the point that however we answer the charter questions that there should be an agreement to do future work on this? I just I want to make sure that I understand and I don't.

Kurt Pritz: Yes so this is Kurt. I'll respond but it's probably not appropriate for me to respond. So if I'm looking at the charter questions and I didn't look at them at all when I went on that monologue, you know, should registry operators or registrars be permitted or required to? So I think everybody is in agreement on permitted but required to is where we have to do additional work because we had to answer that. So that's where I think the additional work comes in.

And as far as the legal basis question I have questions in the charter with all those legal basis questions but so I think that's where my comment applies to that registries, I think at the crux of our issues right should registry operators and registrars be required to differentiate?

Gina Bartlett: Thanks for the clarification Kurt. And Thomas I'm going to go to you.

Thomas Rickert: Yes thanks very much, just a little suggestion. I think that Kurt you're right that more work needs to be done. I guess the question is where does this work need to be done? And I think that basically the mission of our small team on this is accomplished. I think that this group has brought forward all arguments in favor and against a global, globally applicable solution. And I think we have on the record who spoke out or which groups represented what views.

So I think that taking the notes which have been taken during this call, polishing them a little bit we have a final call, we have a final report of our sub- team. And, you know, and myself we are in disagreement on what terminology to use. But according to our charter this would constitute something like rough consensus. And so I think that our group has found the direction forward and this can now be presented to the plenary and vetted by the plenary, assessed by the plenary and taken forward.

Gina Bartlett: Rahul Gosain?

Rahul Gosain: Well just to respond to Thomas's point and just to belabor the point further I don't think that we should read too much into, you know, too much of rough consensus into this because I think the charter rules as they apply I suppose I assume they are to the whole EPDP and not to smaller teams of the EPDP so we should not be too quick to term this as a rough consensus. And while there are arguments for, there are certainly arguments against an equally valid ones at that.

Personally I feel that cost should not be an overriding consideration and I maintain that. And I firmly believe that this is likely to generate some kind of an unfair gradient and, you know, people are likely to use this or misuse this to hide behind the veil of protection by, you know, even those who are non-EU data subjects are likely to register themselves as EU data subjects and also a uniform kind of (un) while it infuses the cause I agree for the registry name holders and for the people for the registries and registrars but also possibly makes it more onerous for the cyber security people and for the (ELA)s and other people to do their job.

So there are two sides to it and I'm sure each one is looking at it from their own side and each one has equally persuasive and valid arguments. However I personally feel that we should not be too quick on the draw to term this as consensus. And I think all our reports should do is to air and summarize all the arguments for and against and then take it to the EPDP plenary and let them decide or let them be the judge of what's the best way forward. All that having been said I think there's a perfectly good case for taking forward what already exists in terms of ICANN consensus kind of a proposal, for instance the rules engine and it would not possibly involve reinventing the wheel also. And since RDAP I assume is the way forward. So I suppose that would sit very well with that and wherever there is some sort of development required to be done I'm sure it should be done and we should be very against a uniform application across the board because that is likely to generate not only unfair kind of a gradient in terms of people hiding behind these domain names and using it to propagate all sorts of malware and malicious activities but it's also likely to make it more onerous for the (ELA)s and for the cyber security people. Thank you.

Gina Bartlett: Before we go on Thomas I don't know if you wanted to just elaborate what you meant by the rough consensus and then I'll go back to the queue of (Kristina) and (Emily). Just briefly Thomas.

Thomas Rickert: (Absolutely). I guess that - thanks very much. I guess I use the term representative because the various consensus levels are used to establish what level of agreement there is inside the group. If full consensus, rough consensus, divergent and I think that this is a good indicator and that's a terminology used to at least those who have been working in the GNSO to report to the plenary about the level of consensus that we have.

Rahul Gosain is right that the consensus calls are to be made in the EPDP (unintelligible) but I think that is for practice for sub teams to go back with a statement on where the sub teams stand in terms of decisions to inform the further decision-making and ultimately the consensus calls in the EPDP. So that's all the reasons behind it. If I'm not keen on using that terminology if that causes opposition. I think it's quite handy to be used but we can use other words to describe the level of consensus which is so far that everyone agrees having one clickable solution and making it mandatory for contracted parties to use one solution where two voices just spoke out against it.

Gina Bartlett: Right. Okay thanks for the clarification. Okay I'm going to go back to the queue and I think, let me just recap. I think that what I've heard and Kurt I think summarize this that with regard to the charter question that the group would agree that registry operators and registrars should be permitted to differentiate that we lack agreement on what's required, and the one proposal is to do some additional work related to that. And I think that the issues and concerns associated our practicality of implementation including the example around the backend data processing cost. And I think there's a real differing viewpoint around whether the ICANN should take GDPR compliant and very focused on that versus others feel like that's overly specific and there's a need to manage for future laws as well as existing laws that conflict. And I know there's some other risk points that have been made that may be too limiting for other countries at this point to be in compliance. So if anyone wants to speak to the charter or any ideas for bridging these challenges that would be super helpful. Kristina?

Kristina Rosette: Thanks Gina. I appreciate you're tying it back to the charter question. I actually disagree with your characterization in the sense of, you know, based on the interventions by Thomas, Amr, (Emily), myself and (Heidi) and any of you should feel free to correct me if I mischaracterize them but I think we are all that group is in agreement that registry, the contracted party should not be required to differentiate between registrants on a geographic basis. And, you know, while I certainly would be the first one to agree that consensus does not mean unanimity I do think that we are heading in the direction for purposes of this small group reporting back that there is rough consensus. It should be required, should be permitted and again so for any of the folks who have just referenced as supporting that view if I've gotten it wrong definitely let me know. Thanks.

Gina Bartlett: Thanks (Kristina). (Emily)?

Emily Taylor: I just wanted to very quickly answer a point made by Rahul Gosain about cost and whether or not that should be a consideration. My - I think we need to our charter on that regardless of whether or not we as individuals or whether our various groups think it's a good idea or not, that's what the charter compels us to consider. So we have to consider commercially reasonable and implementable aspects of the temporary specification or that's how we have to frame our outputs. And so whether or not we think it's a good idea that is what we are - that is the scope of what we've been asked to do. Thank you.

Gina Bartlett: Thank you (Emily). Diane Plaut?

Diane Plaut: Yes hi, thank you. In hearing all the different points I have to say that I am reconsidering my position in that the over application of the GDPR does have its downfall when it comes to (unintelligible) individualized in the application of how we're going to use WHOIS information going forward. And while I do think that it's going to be very difficult to come up at this time with something that doesn't use the GDPR somewhat of a baseline in going through this conversation and applying the legal and natural persons distinction that you

raised if we're going to be able to make distinctions on that front the question is can we work towards making distinctions on other fronts? And we have to think about possible ways to do that.

You know, I wasn't involved in what has happened in the past but there are certainly new technological ways to consider how it is possible -- and all businesses are doing this -- to either technologically through artificial intelligence and blockchain be able to segment data elements, to be able to segment geographical information as well as legal -- natural person status, et cetera. So while this would be a very easy fix to over apply if we have the capability of making policy recommendations we certainly have it upon us to make a policy recommendation that looks broader than just this charter question and looks broader to possibly making a technological advancements that line up with what the legal needs are. So I think that that's certainly important.

Gina Bartlett: Thank you Diane Plaut. Margie I'm going to go back to you and then maybe we'll check in and see if we should have some discussion on the last charter question. Diane Plaut oh, I'm sorry Margie?

Margie Milam: Yes sure. I - as a point of order I think it's wrong to even apply any consensus levels. I mean because again as I put in the chat, this is not the full group. Consensus is meant for the full group. We can talk about, you know, more, you know, members of the sub team took this approach...

Gina Bartlett: Yes.

Margie Milam: You know, I get that, you know, I understand that not everyone agrees on positions and we're going to, you know, describe them as different positions but I caution that it's just not appropriate to use the language of consensus in a sub team discussion like this and recognize that, you know, the positions that I've been talking about don't have full support here, you know, and we have to characterize this. So I'm not, you know, saying people agree when

they don't agree but let's not use that language because that has very specific meaning in the GNSO world.

Gina Bartlett: Yes sure. I think that, you know, the charge of the group just to revisit back what we talked about earlier the charge of the group is to, you know, frame up the issues if you're able to make a recommendation that the small group supports, we report that back to the team. But just to clarify that what we're trying to do here is flush out the issues and identify if there are recommendations that you wish to make. All right so back to the issues. I heard Kristina did a correction of my summary that everyone agrees that operator and registrars should be permitted to differentiate and that they should not be required. So I don't know if anybody wants to speak to that. I'll go to Diane Plaut.

Diane Plaut: Pardon me. You know, the only thing that I'm really concerned with about the discussions that have happened here is that discussions here shouldn't have implications to have broad application generally across what the consensus policy should look like and its relation to WHOIS information. So I think that we have to keep the context of this discussion limited in that regard because we have to recognize that we're looking to make a system that works. But at the same time we have to keep - we have to keep in mind the fact that by overbroad application we also can't take the system as it exists and change it too drastically.

I mean if we look at practical - and pardon me I will - certainly this is going through your question. But if we look at practical practicalities and we go back to just the use of postal codes I'm wondering where that, you know, just using that one example where that conversation would take us because maybe we're making this more complicated than it needs to be. But I just wanted to get that question out there.

When it comes to whether it should be required or permitted I think that it would be difficult for us to be in a position to make a distinction without having

a ramification that it ends up being very complicated and it puts contracted parties in a difficult spot and puts ICANN legally in a difficult spot because if we're going to permit and we're going to use it at the discretion and not require I think that it really is for a lack of clarity. So I don't know if I would support. I think that we have to just make a decision whether it's required or not required. But for the lack of clarity by saying it's permitted or, pardon me, or required would put us in a legally challenging position and isn't a good policy recommendation.

Gina Bartlett: Okay thank you. So I picked up on the chat the folks are thinking that we've may be, you know, kind of went through this and flushed out the issues to inform the team, the larger team. I just want to frame - I'm not sure of the answer of this because I wasn't part of the legal basis discussion the other day. Do we need to spend a little time addressing charter question H2? Is there a legal basis for contracted parties to differentiate between registrants on a geographic basis? I need some guidance here whether or not we should spend a little time flushing out the response to that or has that been covered through the other legal basis conversation? Diane Plaut do you have your hand up?

Diane Plaut: No, pardon me. I'll take it down.

Gina Bartlett: Go ahead Margie.

Margie Milam: Hang on, the phone's ringing. So I think the answer is yes there is a legal basis for making the distinction and it's in the document as cited above. I mean if you look at the where it says GDPR Article 2 materials scope I think that's really what it covers. So my recommendation is that we make the statement that there is a legal, you know, support for making the distinction based on geography.

Gina Bartlett: Thank you. Go ahead Kristina.

Kristina Rosette: Sorry I was getting myself off mute, Kristina Rosette for the transcripts. I think saying simply that there's a legal basis for contracted parties to differentiate between registrants in a geographic basis based on the language in GDPR is accurate but not complete in the sense that as I think we've talked about and as the GDPR checks makes clear if there is either the controller or the processor that is, you know, within the EU that GDPR is also going to apply. So it's not enough in this kind of domain name lifecycle to say that the geographic location of the registered nameholder is (unintelligible). And so I want to make absolutely clear that we're kind of confining the answer to H2 in a way that I think is appropriate in this context.

Gina Bartlett: Thanks Kristina. Okay so I'm thinking that maybe we should wrap up. I think that, you know, the staff will prepare the notes for the larger group discussion. This, you know, conversation will need to continue in the full team. And I think, you know, we've got the clarity on the legal basis and on question H1 Diane Plaut's point is well taken. I'm sorry Thomas did you want to say something before we wrap up? Go ahead.

Thomas Rickert: Yes I guess in line with what Kristina said the question is, you know, as stated cannot be the answer because we're just using one parameter. But I guess if we understood the question to be whether there's a legal basis requiring contracted parties to differentiate between registrants on a geographic basis then no, you know. It's registrars or contracted parties would be required to make GDPR applicable to certain registrants but nothing withholds them from not applying the same treatment to other registrants as well.

Gina Bartlett: Thanks. Rahul Gosain your hand's up, was a little bit delayed in the system but please go ahead. Thanks Thomas.

Rahul Gosain: Thanks a lot. So just to speak to the fact that - to the question whether there is a legal basis for contracted parties to differentiate between registrants on a geographic basis the contracted parties may legally differentiate the

(unintelligible) on geographic basis since each registrant is governed by the relevant national law in his or her jurisdiction. And ICANN cannot act in (unintelligible) of nationalists of foreign countries. So I think and just to elaborate that point further just like the way that is talk about this kind of extra territorial capability and global uniformly applying the GDPR elsewhere where it is not applicable we also have a privacy law legislation in the making. It's now to the - being sent to the select committee in the parliament. So tomorrow when we declare our legislation and it has similar ramifications for other countries then do we expect us to again constitute another working group at ICANN and go about making another temporary spec to - just so we are in compliance with the Indian privacy law? So that is a question which I think is for the group to consider and that is why it is important for us to be mindful of the national, mindful and respectful and compliant with the local national laws.

And so I would very much steer clear of any uniform global one size fit all applicability of what is required by the GDPR. And as I have already pointed out that ICANN also is mindful and respectful of local and national laws so and since the individual registrants are the one and by national law in his or her country which is, you know, which takes precedence over any such requirements like the GDPR which are more extraterritorial in their jurisdiction. So I think there is a strong case for contracted parties to legally differentiate between registrants.

Gina Bartlett: Yes thank you Rahul Gosain. So it seems that the outcome of this - and maybe Kurt can confirm as our chair, so we've addressed the legal basis in charter dating question H2 and then on chartered dating question one around permitted or required, you know, it seems that there, you know, it seems like the best path forward would be to summarize with staff the key issues that you all have identified, you know, you've made capable arguments or you presented capable ideas or capable concepts for addressing practicality, causing commercial reasonability at the new GDPR to be compliant but at the same time exercising restraint because the overbroad application could

create conflicts or constraints on the registrant as well as potentially the contracted parties to somehow balance that and with the proposal, you know, for certain policies but also creating a, sort of a longer runway to further explore and do some additional work on these policies so that you could be, you know, anticipating or contemplating future laws or existing conflictual laws. So I think with that I mean maybe we just summarize this and bring it to the large group for conversation and then just keep working through these issues in the full team.

Kurt or staff anything or I guess small group anyone want to speak to any final comments and then I'll ask Kurt if he's comfortable with that or if he has anything else you'd like you all to discuss before we wrap. Oh, ahead Margie thank you.

Margie Milam: Thank you. In the summary can we make a recommendation that part of the exploration could be to explore the rules engine as described by the DWG?

Gina Bartlett: Sure, thanks. You know, just one more thing as your mediator I do want to say I did pick up in this call, you know, I just want to, you know, we talked about this in our face to face and I think all of you were there. You know, your charge as a team as and the larger team is to manage all of the issues and to craft policy that's responsive to all of the issues and concerns that the members that you've, you know, the way the team has been crafted is to have representation. So I just would, you know, on a go forward basis urge everyone to kind of, you know, it's kind of like we're making a stew and we've got all of these issues that all of you represent different constituents and your charge is really is to craft a path forward that's responsive to all of those even if from where you sit you don't think a particular element is critical or even has that much legitimacy. If your colleague is articulating for their constituent that is critical then we have to sort of - we need to add that to the mix and that makes the problem maybe a little more wicked to call. But I just want to urge that we all have to contemplate and respect everyone's points of views and try to craft policy that's responsive to the greatest degree that we can. All

right Kurt or Rahul Gosain did you put your hand back up or is that from before?

Rahul Gosain: No sorry, it's an old hand I'll put it down. Thank you.

Gina Bartlett: Thanks. And so Kurt I don't know if there is anything else that you'd like the group to contemplate before we wrap up and then just prepare the summary material for the large group?

Kurt Pritz: So your last comments were really well-made Gina so thank you for making them because it's sometimes difficult to say. The only comment I have is really procedural and that is we'll draft the notes in the meeting. Because of the nature of this conversation I think we have to take a little more care in drafting those notes. So what we'll do is draft them and I guess we'll put them to the whole group or maybe, you know, up to you maybe just this small group so you can make modifications in your positions if they're not quite on all fours with what you said. I'm sensitive to the fact that (Hatia) wasn't able to speak and said she would send an email later. So (Hatia) we tried to get the notes out, you know, within a couple hours of the meeting so if you want to send an email that could be incorporated into those meeting notes then and if you could turn that around right after this meeting that would be terrific, although I know you've already invested a couple hours in this.

So we'll do that and try to, you know, point out the issues in the notes the best we can. And then if you could comment on them rather quickly then we'll - I think release them to the whole group but we want to make sure we captured what you said in good fashion. Caitlin Tubergen did we have any other - did you have any comments from the staff side on actions or anything or are we done?

Caitlin Tubergen: Nothing for me Kurt. I will circulate those notes as you said when we receive (Hatia)'s comments so that everyone's comments are incorporated and then

we can circulate to the small team to see if anything needs to be added before circulated to the larger team.

Kurt Pritz: Great. All right well thanks very much for participating on our fourth meeting of the weekend taking a part of your Friday. I hope everybody has a good weekend. So long.

Gina Bartlett: Bye everybody. Thank you.

Woman: Thank you. This concludes today's conference. Please remember to disconnect all lines and have a wonderful rest of your day. Verizon you can please disconnect the recording.

END