ICANN Transcription
EPDP on the Temporary Specification for gTLD Registration Data
Tuesday 20 November 2018 at 1400 UTC
Note: Although the transcription is largely accurate, in some cases it is incomplete or inaccurate due to inaudible passages or transcription errors. It is posted as an aid to understanding the proceedings at the meeting, but should not be treated as an authoritative record. The audio is also available at:
https://audio.icann.org/gnso/gnso-epdp-gtld-registration-data-specs-20nov18-en.mp3

Adobe Connect Recording: https://participate.icann.org/p9if3ht4vwu/?proto=true

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

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

Coordinator: The recordings have begun.

Terri Agnew: Thank you. Good morning, good afternoon and good evening and welcome to the 29th GNSO EPDP Team meeting taking place on the 20th of November, 2018 at 1400 UTC.

In the interest of time, there will be no roll call. Attendance will be taken via the Adobe Connect room. If you're only on the telephone bridge – and just a side note, we do have Chris Lewis-Evans on the telephone bridge only for about 30 minutes, anyone in addition to Chris, please let yourself be known now? Hearing no one further, we have listed apologies from Alan Woods, RySG; Benedict Addis, SSAC; Ashley Heineman, GAC; Emily Taylor of the RrSG, and Amr Elsadr of NCSG. They have formally assigned Beth Bacon,

Rod Rasmussen, Chris Lewis-Evans, Lindsay Hamilton-Reid, and Tatiana Tropina as their alternates for this call and any remaining days of absence.

During this period, the members will have only read-only rights and no access to conference calls. Their alternates will have posting rights and access to conference calls until the member's return date. As a reminder, the alternate assignment form must be formalized by the way a Google assignment form and the link is available in the agenda pod to your right and in the meeting invite email.

Statements of interest must be kept up to date. If anyone has any updates to share, please raise your hand or speak up now. Seeing or hearing no one, if you need assistance updating your statement of interest please email the GNSO Secretariat.

All documents and information can be found on the EPDP wiki space and there is an audiocast and view-only Adobe Connect room for nonmembers 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. I'll now turn it back over to our chair, Kurt Pritz. Please begin.

Kurt Pritz: Thank very much, Terri, and thanks everyone for being here yet again; four working days in a row so thanks for that intestinal fortitude, gratefully, this is the last time you'll hear my voice for at least a week, so my voice is about done and I'm sure you're about done with that too.

So as far as welcome and updates, one is, you know, I said this yesterday but we're looking forward to communication from the ICANN Travel Department on the upcoming face to face meeting. And given that people do have to get visas it'd be great, you know, I don't want to – the Meeting Team always does a great job but to the extent just to ICANN staff, to the extent

they can notices about before this break occurs at the end of this week that'd be great.

The other thing I want to say is, you know, thanks for the great progress yesterday. And I'm sorry I left early but I was able to listen to a lot of it. And so my – so with this meeting I want to plant a seed in your mind that we're going to publish the initial report close of business tomorrow rather than Monday. And the reason for that is that if we publish it tomorrow it – the closing date of the public comment happens just a day this side of the Christmas holiday in much of the world. And if we publish it Monday it happens just on the other side of the Christmas holiday. So we're effectively I think increasing the length of the comment period by a couple days if we get it out today.

You know, that's caveated by getting through today's agenda so I don't want to jinx us there because there's challenging work there – I mean, tomorrow – I want to publish the initial report tomorrow, which is Wednesday. And so that presupposes getting through the agenda. And then we're going to talk about steps before publication at the end of this meeting.

And I'll put some other caveats in there too to make sure we're protected, but wanted to plant a seed that as we're talking and going through this we have that goal in mind so I didn't want that to be a surprise at the end of the meeting. So that's the only comments I have unless I see something in the chat about anything I've missed and so far I haven't.

So let's just get into the agenda if it's all right. I'll just pause for a second to see if anybody has any comments, but the faster we get into the agenda the faster we get to go. Yes, Marc.

Marc Anderson: Hey, Kurt. Marc Anderson for the transcript. You know, I feel a little bit challenged by what you said and sort of noting that there weren't any comments on this. And, you know, I think, you know, I think it's important to

sort of go on record here and, you know, and note that I've been giving a lot of thought to where we are and the work that needs to be done and sort of trying to balance in my head what's more important, hitting a date or addressing some of the, you know, some of the open and outstanding items that we have. You know, and I don't think anybody on this call or that's been participating in this process thinks we're done or have come anywhere close to achieving consensus on all items.

You know, so I think this is very much a work in progress, you know, but, you know, weighing everything I, you know, I think it is important to get something out recognizing that it is a work in progress and maybe rough around the edges. But trying to balance, you know, the work we have in front of us and getting this out for public comment I think these are all important considerations.

I don't know what the right answer is ultimately, and I guess that's your decision as chair, Kurt, but, you know, but I didn't want to sort of leave what you said unresponded to so I thought I'd go out there and say that, you know, I appreciate the decision you're in and where we are and that you're making the decision to get a report out and trying to hold us to our timelines.

Kurt Pritz: I really appreciate those thoughtful comments. And one of the reasons I brought that up in the meeting – at the start of the meeting is so that you all could process that a bit in the back of your mind and do that sort of balancing that Marc just talked about.

((Crosstalk))

Kurt Pritz: Yes, that's…

((Crosstalk))

Kurt Pritz: Hadia. So anyway do that – to get back to the very serious topic, you know, to do that balancing as the meeting goes on and make any comments similar to Marc's at the close of the meeting. All right so thanks again, Marc. Let's – I think Purpose O – so is channeling Benedict on this? My thought on Purpose O was that, you know, personally I have a few questions about it and how it would operate that require answering and require a longer discussion. But I think it's better to publish an initial report so it's proposed so we can capture comments on it and then on the idea and then close that to after and determine whether, you know, Purpose O is necessary and if it is under what conditions it would operate.

So I think here this is the proposed language and also we would include the workbook; I think that's correct, right? So, Marc, you're first in the queue.

Marc Anderson: Thanks, Kurt. Marc Anderson again. And sorry to be talking so much. I did get a chance to look at this language this morning but didn't get a chance to respond via email. You know, I find the proposed language a little bit confusing and I don't like the placement of it. So the proposed new language to be added after Line 645, so that puts it sort of, you know, it puts it in the section that deals with charter questions and preliminary recommendations, it puts it at the end of the preliminary recommendation and – or sorry, it puts it sort of at the end of purpose but before Preliminary Recommendation 1.

I find it kind of an odd placement. And I think kind of – I expected, you know, that, you know, what I expected, what I think we're trying to say with Purpose O is that we'd like to get comments on this but we haven't deliberated on it substantively and that, you know, we're planning to talk about it more later I guess is what we're trying to say.

And so, you know, what I thought is that this, you know, this should be called out in sort of a – as that; say, you know, this – put it in a section that says other considerations or additional discussions or follow-on discussions or, you know, call it out for what it is, you know, and then as far as the language

itself, you know, I think, you know, I think sort of what I just said now is what needs to be said is that, you know, we, you know, we'd like the community's feedback on Purpose O but and that we'll deliberate it after the initial report but we haven't had a chance to substantively deliberate on it yet.

And so I think this kind of like, you know, the words used here do not, you know, I'm not sure what meaning they're intended to convey but it's not that. And the second sentence is – of itself is, "The EPDP Team is considering this question," which question, there's no question there, "to enable ICANN to continue publishing reports in relation to, you know, dot, dot, dot. You know, that sentence doesn't really say anything at all either. And, you know, is sort of – it's unclear to me what message we're trying to convey. I think just what we're trying to say is we want the community to weigh in on this and we'll deliberate on it later; I think that's all that's needed and this language doesn't do that for me.

Kurt Pritz: Thanks, Marc. Marika has a brief comment about the placement in the report and then if you could just say that, Marika, then let's get into Kristina.

Marika Konings: Yes, thanks Kurt. This is Marika. So the placement is that it would be part of the section that basically describes, you know, what the group has considered in the context of the purposes which then follow below the ones that are being recommended. So the idea is to capture this there that this is something that was discussed, hasn't been decided on, you know, as more input is needed. And I think that is what the community input is captured in that last part of that sentence.

Of course there is already a general question that asks about as well, you know, are there any purposes missing, you know, should anything be added, so we do already have that part captured. But the idea is that this write up would kind of capture where it stands, you know, it was considered not in sufficient detail yet; further community input is needed and to kind of tee it up for community input.

Just one other clarifying note there, I think at this stage we hadn't foreseen including a Purpose O workbook as that hasn't really been reviewed and may, you know, create an impression by putting it with the other ones that it has the same status. So it is included through that hyperlink there so people can see what was has been proposed but staff's thinking was actually not to include it with the other data element workbooks as this one does have, you know, a different status at this point in time.

Kurt Pritz: So let's – thanks, Marika, let's in the subsequent comments and the people that are queued up let's reply to Marc's suggestion too about changing the language to just making it clear this is something we're discussing and taking the substance of the goals out of it. Kristina.

Kristina Rosette: This is Kristina Rosette for the transcript, Registry Stakeholder Group. I completely support everything Marc said but I'm actually going to go a little further. I have really grave concerns about anything remotely resembling the type of language that is currently proposed here. There are issues in terms of timeliness, there are issues I've gone back through the email string, as far as I can tell Benedict still hasn't answered one of the questions that Thomas posed. I can't figure out how staff got from the language that's in the workbook and the email to this proposed language for inclusion in the initial report.

I absolutely cannot support this going in as anything other than a this was presented late, we haven't talked about it, we plan to. If you want to comment on it, please feel free. If we are going to do that, I would like just put a marker down that I want to confer with my contracted party colleagues because I do think that my initial reaction is that – my initial thought is that at least the Registries don't currently have any contractual obligation to provide any of this data to ICANN for this purpose, so if this is a purpose that would be going forward it would necessitate amendments to the Registry Agreement, at least that's my initial thought on it. I'd like to see if that is the case because if so,

then I think that needs to be a big red flag that we also need to signal to the community here. Thanks.

Kurt Pritz: Thanks, Kristina. Hadia.

Hadia Elminiawi: I have to understand the (OCTO) office arranged (unintelligible) that they were actually using Whois data for such purposes. And certainly we haven't had enough time to discuss Purpose O but we all knew that it was – that such a purpose was being drafted. So I don't mind if we remove some of the wording in there. I actually, in the third line it says, "DNS security and stability, research (unintelligible) publish reports on threats."

I would actually remove the word "threats" because I guess the requests are in general about the operational stability and reliability; it's not necessarily about (unintelligible). But anyway if we don't – but I think of course it's very – it is necessary to have the purpose out there for public comment to say we've been discussing this or we are going to discuss this but it is our intention to (unintelligible) a purpose for research. And I think it's very important to put something about it in the initial report and one we discuss later. Thank you.

Kurt Pritz: Thanks, Hadia. Let's march through the queue here. Georgios.

Georgios Tselentis: Yes. Hello, everybody. I would like to support (unintelligible)…

Kurt Pritz: Georgios, you're probably not quite as loud as you'd like to be. Can you either get closer to the microphone or try something?

Georgios Tselentis: (Unintelligible) can you hear me now?

Kurt Pritz: Yes, it's getting better.

((Crosstalk))

Kurt Pritz: Yes, it's good.

Georgios Tselentis: Okay thank you. So I was trying to say here that I believe what Benedict tried to do with this really drafting and what is currently done with the – with this paragraph, I think we should try to keep it I think it needs word-smithing but we have to keep it because it has very, very important issues regarding the security and stability which I believe is one of the issues that we initially highlighted as (unintelligible). And so if I may suggest to registries and registrars who are a bit cautious for some of the wording if we can already construct some of wording that they find problematic but I make a plea to keep the whole thing alive and get as much as possible public comment; I'm for keeping this in the report.

So, for example, what Marc said about considering this question instead of question for the – what Hadia said, I think it would be a little bit (unintelligible) and I think it can be done quite (unintelligible). We can keep the – this part in our initial report (unintelligible). I think we should keep it and put it out for the public to comment on in the initial report. Thank you.

Kurt Pritz: Thanks, Georgios. Farzaneh.

Terri Agnew: And, Farzaneh, this is Terri. I don't see where you've activated your audio mic yet. On the top toolbar select the telephone icon and follow the prompts. Or click…

((Crosstalk))

Terri Agnew: Perfect.

Farzaneh Badii: Sorry, I'm just – I'm very tired. So okay Farzaneh speaking. I have to say I was involved with when Benedict (unintelligible) this purpose. I did raise my concern. I actually said so this is more about access to the personal information and while we are not discussing access yet, but I don't want to

bring up that issue, so when Benedict came up with the idea to put this in as one of the purposes then we asked the office – the OCTO whether they use personal information for their, for example, the domain name abuse activity reporting. They said no they do not use personal information for that reporting.

And we were like still exploring the issue a little bit further because I've been asking Benedict what sorts of data elements is needed for ICANN to do this cyber security research and we are talking about personal information here, right, and personal and sensitive information. So basically I think we – I think the language at the moment is not very well thought out, we have not discussed it well enough to come to consensus or at least in agreement that we should put the language that is out there in the report. So I think that we should just say there might be some Purpose O for the security research; we are working on it and that's it. Thank you.

Kurt Pritz: Thanks. Alan.

Alan Greenberg: Thank you very much. Alan Greenberg speaking. I'll note that this is not only OCTO research but also the accuracy reporting system. That's a facility that was built in response to the first Whois response – Review Team, questioning whether there are accuracy issues. The results that have proven shown to date shows there are very significant accuracy issues; the program is currently on hold. Kristina's argument that there are no contractual obligations to provide this data is quite correct, there was no need for because it was public data and that's why we're here to build the policy.

So the fact that there's nothing in the current contracts is almost intuitively obvious, there didn't need to be. So I think we must put a reference into this. I don't much care about what the language – the details of the language but I think we must put the issue in the interim report and make it clear that we're soliciting input on it. And I'm not going to particularly fuss over which section

it's in as long as it's a clear identification of what the issues are and the fact that we're looking for input.

And, please, it's not just research; OCTO said they don't use Whois data for research, they use it for other purposes, and the accuracy reporting system is logically a compliance issue, it just happens to be situated – the work just happens to be done by GDD group and therefore it isn't in the list of things that Compliance said they do, but they take the output and act on it. So it's functionally Compliance even though it doesn't end up being performed by the Compliance people. Thank you.

Kurt Pritz: Margie.

Margie Milam: Hi. This is Margie. Yes, I support what Alan and others have been saying. I do think it needs to stay in the report in order to solicit public comment. There's multiple elements of this that are important including both the work of OCTO and what we heard from OCTO, the Office of the CTO, the – basically the security team at ICANN is that they've been hampered in their ability to access the data since May 25.

And so what this is meant to do is to at least solicit input on whether that should be a purpose so that they can continue to do the work that they did before related to research plus abuse mitigation coordination, all of the things that ICANN was doing prior to, you know, May 25 with the data that was available at that time and Whois accuracy is one of those elements – the reporting because that's basically a research function done by GDD.

So I propose – I think it's an important to keep it in the report as a placeholder. It doesn't have the same consensus level as other things because there hasn't been the ability to fully discuss it and so I agree with, you know, the placement that Marika and others have talked about. Thank you.

Kurt Pritz: Milton.

Milton Mueller: Good morning, everybody. This is Milton Mueller at Georgia Tech. I'm kind of shocked at how confused this discussion is. What we're talking about is not a purpose. Everything – every function that people are talking about in relation to this would already be covered by Purpose 2 or what used to be Purpose D which is providing access to third parties with legitimate interests. Anything you're talking about here is already covered by that.

                   This is not a purpose that justifies collection or if it is it's tremendously scary because as a researcher myself I know that if you say your purpose is research regarding DNS security and stability and threats, you could be interested in anything, there is almost any data element that you can think of might prove to be relevant in some kind of a security or interoperability or resilience research.

                   So we're not, I think, justifying new forms of collection here; we are simply saying that in certain circumstances researchers would have a legitimate interest to access the existing data elements and that's already covered by Purpose 2. So we don't need this and we don't want it and it hasn't been properly considered. Thank you.

Kurt Pritz: So I'll latch onto Milton's last comment that it has – last phrase that it hasn't been properly considered. I feel almost like back in September talking about purposes and so I wonder about what our way out of this is. I'm, you know, I'm sympathetic to that there's some work that ICANN was doing that it's no longer doing and we should figure out how, you know, that it's sufficiently important that ICANN should keep on doing it. But, you know, I'm – this has become much more complicated, right, if it requires contractual amendments, we have to think about the benefits and cost of that.

                   You know, we have to think about whether this is already addressed by Purpose B or not. And so, you know, I'm kind of going to where we want to,

you know, we want to preserve this discussion in some way for the initial report and word it in a way that gets the correct public comment. So I think we want to be fairly specific in the goals of this but, you know, and we tried to say in the first version of this, you know, is to pose the question, "Do we need it? Is it already covered under – in a existing purpose? Or do we not need it?"

So, you know, I'm for putting the specificity and the reasons for doing this such as the programs ICANN was running so we get the right public comment. But also be really clear that, you know, we're just – we've just – because of the late introduction of this we've just started discussion on it. So, you know, I want to get through the queue, we're half an hour in, and on this so I'm looking for the right touch, the right lightweight approach to preserve this issue and then get public comment and then we'll have our discussion on it afterwards.

Hey, Lindsay, go ahead.

Lindsay Hamilton-Reid: Can you hear me?

Kurt Pritz: You're a little faint.

Lindsay Hamilton-Reid: Okay I'll try (unintelligible) the best microphone. Just a follow on to Milton, and (unintelligible) but it shouldn't go in as a recommendation and (unintelligible), shouldn't go into the recommendation; it can be mentioned in the report maybe as a question later on but as we haven't discussed it and (unintelligible) it shouldn't be in as a recommendation. I think I would also say as well (unintelligible) doesn't mean that (unintelligible). Thanks very much.

Kurt Pritz: Thank you, Lindsay. Mark.

Mark Svancarek: I'm sorry, Lindsay, I didn't hear even a word of that, sorry.

Kurt Pritz: I heard it.

Mark Svancarek: Yes, I have a couple opinions about this purpose. I mean, if we're not taking any new comments it seems crazy to take a new purpose. So that's one opinion. Another is just I'm remembering where this came from; back in LA we were very concerned about specificity and there was a debate about whether we should combine this purpose with another purpose. And so it was intended to be broken out. Unfortunately, it was then never completed by the people who volunteered to complete it, I think, that was Benedict and Farzaneh, but I'm not really sure. So I know I've been nagging Benedict for this for like weeks. Which means that we can't actually discuss it here and even though I think it's an important purpose that needs to be mentioned somewhere, I'm not sure what the format of that should be.

Matt wrote something, you know, it was raised as a potential purpose, "The group did not have the opportunity to fully discuss it." I think I would flesh that out a little bit more, you know, just so that people can understand what the original intent was, but something like that seems fair enough and then have a link to you know, this draft. If we're referring to it, proposed new language is not accurate, I mean, it's something like initial draft language, you know, because that's where we're at.

And then finally to Milton's concern that this leaves us open to, you know, collecting anything and processing anything, if the data to be collected and the processing to be performed is disclosed at the moment of collection, then it can be lawful. If it is not disclosed at the moment of collection, it wouldn't be lawful. So I feel like that concern is misplaced. If we're doing, you know, this is lawful access; we will do the things that make it lawful, which includes knowing what will be collected and how it will be processed. So I don't think that's a legitimate concern, that's all.

Kurt Pritz: Thanks. Go ahead, Alan. Oh, Thomas, I'm sorry.

Alan Greenberg: I saw Thomas next.

Kurt Pritz: Yes, Thomas was next.

Thomas Rickert: Thanks very much.

((Crosstalk))

Kurt Pritz: …I missed you, sorry. Go ahead.

Thomas Rickert: No worries, Kurt. Hi, everyone. I really struggle with this new purpose, not only for reasons of timing, I mean, we said we want to – or you want to publish tomorrow. We can't have a proper discussion about this. You know that I discussed this with Benedict and I wrote a response to his email on the list and my concerns. In the absence of knowing what ICANN exactly wants, whether the data can be psuedonymised, whether they need all the data or just a subset thereof, we can't really have a good discussion about what we think is appropriate. And I think it's unfortunate to say the least that we have ICANN folks on the call but yet we are trying to second guess what the requirements for ICANN might be.

So I guess – in terms of a way forward, let me suggest this, we can put two lines into our report that we've been discussing research of registration data as a purpose for collecting the data but that in the – that we didn't have enough information to actually have a discussion and come to a conclusion. And leave it there. And then ICANN can put their requirements into a comment to our initial report and then we can analyze and continue our discussion, but I think that without knowing what ICANN is up to I wouldn't be able to make an informed decision about what to do with it.

Kurt Pritz: So we're starting the queue over again, so I hope you guys have something new to say, and then, Hadia, let's draw a hard line – try to get home on this one. We're not debating Purpose O so much as what goes into the initial report. Alan.

Alan Greenberg: Thank you very much. Alan Greenberg speaking. Several very brief points, number one, it is not just research, it's the accuracy reporting system. We know exactly what that is and if someone else doesn't want to speak to it I certainly could in about three minutes so that is not a vague thing; it is very specific. That's Number 1. It was brought up in Los Angeles, it kept on being ignored and fell through the cracks. I raised it about a week and a half ago on the email list and again it wasn't acted on. The third – the – so it's not something brand new and the ARS part of it in addition to research is a very well understood phenomena, it's a well understood process.

In regards to Milton's comment that we can treat this under third party access, I don't see how in the world we can construe internal parts of the ICANN organization as third parties. Thank you.

Kurt Pritz: I'm just reading in the queue here. So I want to – you know, I want to – there's a lot that's been written in the queue, you know, Farzaneh, didn't you see that I drew the line under the end of the queue? Go ahead, but please be brief. Did you take your hand down? Okay.

So yes I also read in Purpose O that the – it's – pseudonymised is the registration data or however the hell you say that word and so I wonder if there's any personal data involved here, whether or not Purpose B can cover it or, I don't know. There's people talking on both sides. You know, I've seen a lot written here. You know, I think, you know, I want to go back up to Matt Serlin making a statement that the issue was raised – this issue was raised and we'll say what the issue is.

 I think to get the right amount of public comment we need to say, you know, to maintain current ICANN OCTO activities such – and include the words, you know, the Whois accuracy. And I know you have to be really careful how you say those words, but put in exactly the right words there so we get the right amount of public comment, but stick to, say, you know, this issue has been

raised and not discussed and then just say so we're, you know, there's – and Marc's got his hand up, I think I'm channeling Marc's very first comment on this and – that we've all forgotten.

And so, you know, so we're studying whether this is a purpose, whether it's covered under existing purposes, whether – or whether it should be included at all. So but just to, I think, address it in a couple sentences. Marc.

Marc Anderson: Hey, Kurt, sorry. I was trying to type this in chat but just I gave up and raised my hand. The point I was just trying to make is there seems to be – we seem to be talking past each other a little bit. Some people seem to be presupposing that this is just about ICANN's use of the data when it come to DNS, security, stability and research, etcetera, whether as others seem to be talking about this in sort of a broader context to include third party security researchers. So just, you know, my observation from the statements people are making are that, you know, we're not quite on the same page as far as the scope of what we're talking about here, whether it's just ICANN or whether it's broader than that.

I understood it to be broader; I understood this to not just be about ICANN's use of the data, which is part of why I had issue with the explicit reference to ICANN's OCTO and ARS sentence because I thought that sort of took away from the broader concerns here. So I think, you know, Kurt, just circling back to maybe where we started I think, you know, from me at the beginning and from a number of people along the way that we just – we haven't substantively discussed this. I look forward to having a substantive discussion on this later but it just hasn't happened yet and I think we need to note that in the report and, you know, solicit input and move on.

Kurt Pritz: Thanks, Marc. I was trying to type something. Stephanie, please go ahead.

Stephanie Perrin: Stephanie Perrin for the record. I hope you can hear me.

Kurt Pritz: Yes.

Stephanie Perrin: I have two questions about this whole topic other than I absolutely agree, you can't be putting this in at the last minute no matter how much people want it because we haven't adequately thrashed it out. The two questions that we find are, this is a data quality issue. Data quality is an implementation issue, verification of data quality. And that seems to me to be what ARS system, and I have that in air quotes, is. The question arises immediately as to whether it is ICANN who should be doing this data quality exercise, and how does that fit into their role as controllers, co-controllers or indeed processors of data?

And since we are still in, let's call it a limbo state with ICANN's declaration of…

Kurt Pritz: Is Stephanie breaking up or is it my mic?

Terri Agnew: I do believe Stephanie's breaking up on all of our lines.

Stephanie Perrin: Hello?

Kurt Pritz: Hey, Stephanie. You're kind of…

((Crosstalk))

Kurt Pritz: Yes, but you're going in and out.

Stephanie Perrin: It must be because I talked about ICANN's controllership issue and whether they are controllers, co-controllers or processors. When did you lose me? I was discussing why on earth would you shine a flashlight on the fact that ICANN itself has not determined its data controller, data processor, data co-controller role because this is an implementation issue and it's not clear that it is up to ICANN to do it. Thank you.

Kurt Pritz: Thanks, Stephanie. Yes, so all good issues about the complexity around this purpose and why it's a longer discussion. So I've been sitting here trying to type just a couple sentences and haven't had much luck so – because I'm doing too many things, but I'm after a three-sentence solution to this to put in the report that raises that the members of the EPDP team recently addressed an additional purpose for processing registration data.

Milton Mueller: It is not a purpose.

((Crosstalk))

Milton Mueller: Just don't accept it as a purpose.

Kurt Pritz: Yes but that might be – that might be clear to you but a fact is that a member of the EPDP team recently introduced an additional purpose, so I'm just reporting facts here and so I'm not – I understand what you say and I'm probably on your side of the argument but as far as, you know, recording this and just putting a simple statement into the initial report I think we need to record that, you know, a member of the team recently introduced an additional purpose that supported DNS security and stability research.

I think we should memorialize that it might support ICANN programs such as measuring Whois accuracy data and then say but this is a very preliminary discussion and so, you know, we are soliciting public comment on this.

Milton Mueller: I totally object to that. I think that's, you know, if this had been something that we had discussed for a long time and we didn't come to an agreement on it we could have a set of wording in there like we do for all the other controversial issues that says, you know, some of us think this and some of us think that. We don't have time to do that this time. And there are even doubts, serious doubts raised about whether this constitutes a purpose at all or whether it's covered by another purpose.

Unless you're going to memorialize all those things you're just basically allowing somebody to pull a tactical fast one to get something that they want in and then allow them to marshal all of their friends to issue public comments in support of it. And well, okay, so what if other people start doing the same thing, we start introducing three or four other things into the report that are completely new that half of the team doesn't like? I mean, I just can't believe that we've discussed this for so long and something so ill-conceived has gotten so much leg. I just can't believe it.

Milton Mueller: Well I think the problem I that we haven't discussed it for so long. So Farzi, what are you recommending? Are you recommending that I put together wording or how would that work?

Farzaneh Badii: So, Kurt, I'm sorry I'm jumping the queue but I actually think that we have not discussed this purpose enough and, I mean, if it is a purpose or not, but we have not discussed it enough. And now people are trying to add to the scope of the research purpose. We did not discuss this with Benedict on – we discussed research, we did not discuss accuracy and which you can see the danger of this purpose now that people want to put more stuff to the scope of it. And we have not discussed – how can we ask questions from the crowd if we have not discussed it?

So what you could – what you could do is that we cannot say whether we can just ask questions, do you think this is a purpose or, you know, and we cannot really recommend a language, we cannot – we don't have a language. And there are things that we need to discuss with Benedict on the pseudonomisation of the data elements and stuff like that. We don't really have enough information on both – on research and on accuracy. So I believe that if you want to ask – if you want to ask them so you can just say we did not – we have not discussed this enough but these are the other potential issues that this team is going to discuss (unintelligible).

Kurt Pritz: So we could – we could say that this additional purpose has been recommended. Here's a link to the workbook, please provide your input into that purpose, something like that. Mark, I'm going to give you 20 second and then I'm going to quit this issue and…

Mark Svancarek: Yes, I just want to say this isn't anybody trying to pull a fast one; if anything it's somebody trying to pull a slow one because this has been around, you know, for months and months and months and it was a failure, of course, for it to get into the discussion but it's nothing new. I'd be quite happy with simply providing a link, a summary of somebody, you know, we've been talking about this for a long time, it didn't get done, here's a link, please provide feedback and let's just move on.

Kurt Pritz: All right well I'm sympathetic to Kristina's comment in the chat. All right I'm going to develop some – try to think of some wording or work with staff offline on this and let's try to go onto the next purpose see if we can get to the end of something here. Let's go onto additional language regarding the responsibilities section. And I think is it appropriate to ask Thomas to – Thomas to introduce this?

Thomas Rickert: Hi, Kurt. I'm more than happy to do that. So just offer a little bit of context, we had offered language for the inclusion into the initial report that was discussed and we've asked for objections. There hasn't been any. So what you see in front of you in the Adobe room is additional language that can be inserted into the language that we have in the initial report – in the body of the initial report I should say. And that language is meant to respond to a couple of points that were touched upon in the ICANN memo on roles and responsibilities.

So what this basically does is sheds some light on things like, you know, how can this be done in terms of contracting, how do we deal with the EBERO situation? How do we deal with the issue that we are discussing things in this

EPDP team quite at a higher level while the joint controller agreement needs to have more details in it?

So I'm not sure whether I should actually read the language to you; I think that's not the best use of our collective time, but basically the first paragraph says that we understand that a greater level of granularity is required than this report; that the parties need to make clear, the parties would be ICANN registries and registrars when they negotiate the joint controller agreement that they appropriately delineate the purposes and the processing activities governed by ICANN vis-à-vis those that they take care of themselves, that we also recommend that the risk of data processing shall be shared adequately.

One of the questions from ICANN was, how the indemnification would work and that it might not – or that it would be unfair to have it only in one direction. So this clarifies that depending on whose interests are concerned, the joint controller agreement should come up with fair indemnification. It also – the next paragraph speaks to the issue of contracting with third parties and basically the construction would be that in the joint controller agreement we give the flexibility to those who are currently using third party providers, potentially as data processors to do things on their behalf, that we also – that the joint controllers authorize the respective parties to continue to do so moving forward, but that they then have to ensure that the appropriate agreements are in place.

So ICANN can then still (pick) EBEROs but they need to make sure that if the EBEROs are processing data as a processor that a data processing agreement is in place, so they would be responsible for that part. Likewise, there are scenarios for registries and registrars where they outsource certain activities and use processors that work on their behalf so that would be registry service providers but also for registrars, registrar as a service provider, you know, that offer the technical environment to operate their accreditations. The reseller situation is mentioned in here.

And I hope that this clarifies that we want to keep things as much as possible as they are today but that the joint controller situation should in fact reflect that this can take place as we see today in the industry.

So then the last point is – and this I guess was the primary driver for Marc's questions and that was also mentioned in the ICANN memo, how do we operationalize joint controller agreements? Is the idea to have one agreement to which ICANN plus all the registries and registrars are parties, which would be an administrative nightmare. And whilst I think it would not be appropriate for our group to actually prescribe exactly how things can be dealt with at the operational level because that needs to be left to implementation, I came up with a potential solution that could be considered by the party but that would nonetheless not be binding upon the parties as a recommendation.

And that is to clarify that we would have a plethora of joint controller agreements, one for each registry plus the accredited registrar that is accredited with the registry so and ICANN certainly. So you would have an awful lot of these mini triangular relationships and those would contain as much as possible standardized language on the allocation of responsibilities, indemnifications and the like. And those could potentially be added to the RRA as an addendum where the registry is authorized by ICANN to enter on behalf of ICANN and to those joint controller agreements with the registrar.

And since the registrars will likely have to update – the registries, I apologize, have to update their RRAs based on the outcome of this very EPDP, it may be a good opportunity to push the joint controller agreement into the market through that route. That's it in a nutshell. I'm happy to hear whether this is something that you think is appropriate, whether we should add it to the report on an as-is basis or whether we need to make amendments before it's being included in the report.

And I see that there's a (vivid) discussion in the chat about an unrelated issue so I hope that I have not distracted you too much with my overview of this

and proposed language. So maybe it's just my AC room but I don't see any – oh there's one hand from Marc. Marc, over to you.

Marc Anderson: Thanks, Thomas. Marc Anderson for the transcript. So first I want to say, you know, thank you for the proposed new language. I think your additional language is good. I think it clears up some questions that I had and hopefully it helps with some of the points that ICANN raised in their memo, you know, although my read of that is that, you know, it doesn't necessarily cover all of those so my suspicion is that maybe that'll help but not cover everything.

You know, I'm generally supportive of the approach. I suspect you've probably surmised from my previous comments that I'm supportive of leaving flexibility to the contracted party lawyers, ICANN, registry, registrars lawyers to figure out what the mechanism is for doing this, so, you know, I prefer to leave the flexibility to them. But as you pointed out in your comments, you know, this, you know, your language just talks about, you know, a possible way; it's not prescriptive and this is how it must be.

So, you know, in general I think your language is good. I appreciate your responses to my questions I think it was yesterday. I thought your responses helped. I think I wish we had a little more time to tweak this; I think we could make it better if we had more time and perhaps more time would help us address some of the other points that ICANN made. But maybe I'll end at that point is remind everybody that, you know, we had a call I guess it was two weeks ago now with ICANN staff on this particular topic, covered a lot of ground and ICANN staff offered to have a second call.

And so, you know, maybe I'll end on saying I'm supportive of Thomas's additions, I think maybe some additional work here could result in a better work product though and that maybe we should take ICANN staff up on their offer to have a follow up call on this topic. Thank you.

Thomas Rickert: Thanks very much, Marc. And I should clarify that, you know, the language that you see in the Adobe room is not including the answers that I gave to Marc on the list and it might be worthwhile reading those responses into this memo so that, you know, that everyone can benefit from the clarifications that I've offered on the mailing list. Kurt, please.

Kurt Pritz: Thanks. I hope everybody doesn't mind that I offer a suggestion here. I think we should give ourselves a little more credit for the analysis and work that's been done, so instead of saying maybe the EPDP team understands that a joint controller situation, blah, blah, blah, maybe we should say the factual and legal analysis performed to date by the EPDP team indicates that a joint controller situation between ICANN. So we – it's not just not a real – you know, it's just not a realization or that we've been informed but actually that there's some work been done. Thanks, Thomas, and thanks for this work also.

Thomas Rickert: Thanks very much, Kurt. And I think we have something to that effect in the report but I take good note of that and Diane mentions that she also offered clarification which I think has not made their way to the entire list. Those were not substantive changes but I think very good additional explanations. So what I suggest we do is – this is also in response to Kristina – I will take this text, put in the suggestions made by Diane, put in the clarifications to Marc. I will double check that we have in there the point that Kristina mentioned or Lindsay, I'm not sure who it was in the chat that the drafting of the JCA is not part of this EPDP.

And, you know, and then everyone can take a quick look at this. But there doesn't seem to be fundamental disagreement with the language, which I think is an extremely good sign. So before I yield the microphone, I would just like to mention that in the table summarizing the allocation of responsibility and the legal bases, and that's the part in the initial report that comes directly after language that we've just been discussing, we do not have legal bases for all parts involved for the respective processing activities. I think that this

has been omitted a couple of weeks back, I don't know, but I think that we should have the bases for all parties for all processing activities in our report.

I think we can't do that collectively but just as a heads up and if our leadership, Kurt, if you permit I would take a crack at that, share it on the list for everyone's review so that we at least have all the information that needs to go to the community when we publish our initial report. Thanks so much. Back over to you, Kurt.

Kurt Pritz: Thomas, when do you think – sorry for asking it but when do you think you'd publish that?

Thomas Rickert: I think I will spice up my waiting time at the airport later today with this exercise and ship before my day ends in Germany.

Kurt Pritz: Okay that'd be great. And then if we could have responses to that, you know, within a couple hours of that, assuming that it's during people's awake time that'd be great. Marc.

Marc Anderson: Thanks, Kurt. Marc Anderson again. Just responding to the last thing Thomas said, you know, I strongly agree that, you know, we need purposes for all the processing activity and I'm concerned that, you know, Thomas is pointing out that we have gaps, you know, so if so that's an important issue that needs to be addressed. So I guess first, thank you for raising that; but second, you know, Thomas, maybe, you know, before you propose, you know, answers could you maybe send to the list where those gaps are, might be useful if you could provide that to the list as well. Thank you.

Kurt Pritz: That okay with you, Thomas?

Thomas Rickert: It is. I'm just about to type in the chat, which I'm not going to do now, that I will do a redline version so that you can see where the missing links – the missing parts were.

Kurt Pritz: Okay great. All right let's go onto the next item on the agenda and again, great thanks to Thomas and Diane and others who supported this, Thomas, great work. So slightly more contentious is UDRP additional language. So, Margie, could you introduce this and let's focus on language that'll get us to the end here.

Margie Milam: Sure. This is Margie. This language – what I did in the redline was really lay out the perspective of those that disagree with the notion that the UDRP and the changes from the temp spec, you know, haven't caused any issues. And so the language is redlined and it's underlined with my prior language and then there were some comments on the list from Matt and others and I tried to take that into account. But essentially what the language suggests is that that we feel that there should be pre-filing access to the data in order to support the analysis and drafting of a complaint for a UDRP. And so that's what that language says.

                    There was some discussion among us about whether it was the same as a privacy proxy service and should be treated the same, and the language in the – that's underlined it explains, at least from our perspective, that it is distinguishable because the privacy proxy service is a separate one, that the registrant chooses, has separate policies, and a different set of responsibilities. And so in our view that's why you would treat registrations that are redacted differently than you would a privacy proxy service. So that's essentially the background behind the language.

                    Could you scroll up a little – yes thank you; makes it easier to read. And so there were some that thought that you couldn't make changes that relates to this issue and what I did in the redline is I essentially took out the – some of the policy suggestions that could be explored and essentially what the language says now is that some believe that this concern can be addressed through a policy recommendation to be explored further in a later phase of this EPDP. And that's where the language would end. And that's essentially

acknowledging that we didn't – we can talk about it later but it's squarely within the remit of this group, it's in our charter and it's relevant to charter question O.

Kurt Pritz: Thanks, Margie. And thank for adjusting the language after some comments. So everybody good with this? Okay, Milton.

Milton Mueller: Yes, it's, I mean, it's good that she has deleted language. I like to see cross-outs in these things because – so I think that we are getting a little bit too much into, you know, advocacy with this and the privacy proxy thing is not really the key issue. You know, the point about privacy proxy was simply that these complaints can be made without access to registrant information pre-filing; that is a fact, right? So I don't understand the relevance of the point about GDPR – the difference between privacy proxy services and GDPR and redaction under the temp spec, I just don't think that point is relevant.

And I think that the point about policy recommendations to explore it further does not incorporate the views of people who believe that this whole thing of trying to modify the UDRP through this expedited PDP is out of scope. So I couldn't support the wording going through as it is.

Kurt Pritz: Anybody else? So I have – Milton I have two responses to that, one's pointed at you and maybe one's at Margie. So I wonder – so I know that – I know you're trying to make a point here in this distinguish-ment from privacy proxy registration. And I wonder if there's enough in this thing that people will get that – people will get exactly why you're saying that at this time. This is something that's come out of a long discussion so I'm wondering if you're going to get the right comment with that statement or something more, I don't know, it seems like a hard concept to relate in just a clause of a sentence that you're distinguishing, you know, why you're distinguishing this from privacy proxy registration because without going into a long discussion about how proxy privacy is handled and so I wonder if there's some way that we just say

that some believe, you know, you point out the necessity of it in some other way, gosh, I'm sorry I'm so incoherent.

And then, you know, to Milton, I think it's pretty clear that in the latter part, you know, where it says, "some believe," you know, that's a "some" and not an "all" you know, and if some people believe that, which they do, then, you know, it's hard for another stakeholder group to take that out. Marika, you're going to help me out aren't you?

Marika Konings: This is Marika. I'm not sure about that but I just want to point out that this paragraph fits within a section that has, you know, a preceding sentence that, you know, clearly explains that there was a specific proposal in this regard from the BC and IPC to address concerns, and then of course it goes into saying that, you know, that wasn't supported by others. So again, it does need to be seen together as such and this is kind of the rewrite of the paragraph to explain, you know, some of the issues but it's, as said, I want to emphasize again this is not a recommendation; this is purely kind of a write up to reflect the conversations in relation to this item.

Kurt Pritz: Ayden suggests that rather than say "some" we say "who." Ayden, did you want to say that out loud before I get to Margie?

Ayden Férdeline: Sure. Hi, everyone. This is Ayden Férdeline. And that was simply – it was just a small edit, rather than say that "some believe," we could have – rephrase that to the BC and IPC or whoever else may support this believe, just a small change if we just offer proper attribution to the statement that was made and the suggestion. Thanks.

Kurt Pritz: Margie.

Margie Milam: Sure. Ayden, that's a good suggestion. The other thing that, hearing what Milton said about it being more of an advocacy thing, the reason why I included this language is because the – if you start with the "however"

language that was already in there, now we can simply say, "Some believe that GDPR redaction is distinguishable from a privacy proxy registration period," and end that paragraph there. I mean, you guys can see what we've written but I don't know that it adds – maybe it's too much information so we could just stop, you know, and then similarly – and then pick up with "similarly." Would that make it a little easier to read?

Kurt Pritz: Go ahead and respond, Milton.

((Crosstalk))

Margie Milam: Yes. Yes and then that way it doesn't sound like an advocacy piece but it at least raises the point that's not a universal view among the team.

Kurt Pritz: Kristina.

Kristina Rosette: Yes, one thing that I'm still looking at in terms of the other recommendation, and I'll get back to that, but my primary concern from a kind of format style perspective is that I found the repeated references to "some" very confusing. So for example, you know, "Some believe that GDRP redaction is distinguishable," you know, that I think should be replaced with "proponents of pre-filing disclosure believe that," and kind of – you know, whether you want to call it proponents, advocates, whatever, but I think using "some" to refer to different groups with different views is going to confuse everybody except for the people on this phone call.

Kurt Pritz: I think that's corollary to Ayden's comment so Margie could incorporate both those items, "proponents of the pre-disclosure" parenthetically and the groups that support it I think would be really helpful to the commenters.

Margie Milam: Sure that or actually listing BC, IPC, I don't care, whatever the group prefers.

Kurt Pritz: Yes I think both would make it clearer. So how – what's the – do you want to – can you – well I don't want you to detach yourself from this important discussion and mark this up now but in the event you can get rewording to us before the end of the call we'll put it up.

Margie Milam: I think Marika has it.

((Crosstalk))

Kurt Pritz: Thanks, everyone.

Margie Milam: It's just cutting out words.

Kurt Pritz: Okay.

Margie Milam: So, Marika, could you put that in the chat? Yes, it's pretty simple.

Kurt Pritz: Okay. Okay great thanks, Marika and Margie. Groovy. Okay, preliminary recommendation Number 2 language that was circulated on email, can we put that up please? So this was the language that was discussed at the end of the meeting yesterday. Thanks very much, you guys, for getting so far on this. I saw one positive comment – one positive comment on the email exchange. I'm pretty chuffed by all this. Does anybody have a comment to this one? Yes, Alex.

Alex Deacon: Hi, Kurt. It's Alex. So I think we're okay with this so I think unless you hear otherwise I suggest we move forward with this language in the initial report.

Kurt Pritz: Thanks. No, we're not done, Milton, we're going to go back. We're going to go back to the proposed Purpose L. So could you – not just in the chat but in a Word document could you paste some suggested wording for this – for the – one of the first agenda items, Marika or Caitlin?

Marika Konings: Kurt, if you could just send that to me we can…

((Crosstalk))

Kurt Pritz: How do I get in the Skype?

Marika Konings: Is it the last one…

Kurt Pritz: Yes, so it's – yes.

Marika Konings: Okay.

Kurt Pritz: I'm not sure I want to go into the feature instead, okay. Alan.

Alan Greenberg: This does not mention the accuracy reporting system and I think it is crucial to call it out by name. Thank you.

Kurt Pritz: Margie.

Margie Milam: Yes, I was going to say what Alan said but also it makes it sound like it's just one EPDP team member recently introduced; I think that's wrong because we've been talking about this since Los Angeles. It's just that we didn't have time to focus on I so I'd like that rephrased.

Kurt Pritz: Hadia.

Hadia Elminiawi: My comment actually is like Margie's, we all agreed as a team to start drafting a purpose that speaks to research, so also I (unintelligible) EPDP team member, actually I would like to see (unintelligible) to the EPDP team agreed in drafting something along those lines. And then we could say that it was introduced very late (unintelligible), but we did all agree that such a purpose was going to be drafted. Thank you.

Kurt Pritz: Milton.

Milton Mueller: Yes I believe that the first paragraph is okay, the second paragraph is a little bit vague. So when it says, "intends to support the DNS security and stability programs and the research" I think that's kind of a softball way of putting it. What you really want to say is that we – this is hard. So…

Kurt Pritz: I know it's hard.

Milton Mueller: We need – what we're saying is that we need an additional purpose that would authorize ICANN's Office of the Chief Technology Officer and Compliance to get access to Whois data, something more along those lines, now that's much clearer. And then I think it would make sense in the third paragraph to specify that we believe it is Purpose 2, which already addresses this need. And I would agree with Thomas and others that we do not need, and would not support this if we had this mention of the accuracy reporting system which is I think a complete red herring in this context. That's all for me.

Kurt Pritz: Alan.

Alan Greenberg: I think it needs to be clearer whether we're talking about internal to ICANN organization or outside because I think those are two different things and they may be for the same purpose but the mechanism process, things should be completely different I believe, so it certainly needs to be called out and I do believe accuracy – the accuracy reporting system needs to be mentioned somewhere. I don't much care if it's in this one but it was wrapped together by Benedict in this one – in the one that we looked at earlier today and it needs to be somewhere. Thank you.

Kurt Pritz: When you said in the middle you said something about mechanism, I didn't quite understand that comment, Alan.

Alan Greenberg: I'm saying – sorry the wording is probably not precise enough. If we are going to use this as a blanket thing for ICANN to do research, and for external security researchers or university professors or whoever to do research, I would think that how that would be implemented would be quite different from each other and therefore number one, it needs to be made clear which we're talking about or if it's both and how it is implemented clearly on the – in a later phase would be quite different when we talk about access.

So I'm just saying we need to be clear because there are sufficient differences that one is a relatively closed group, that is ICANN itself; the other is a potentially very open-ended one and I think they have to be treated differently. Thank you. I hope that's clearer.

Kurt Pritz: Yes, and I'll say that – I'll say that I left it vague for that reason because as soon as you start talking about inside ICANN and outside ICANN, maybe inside ICANN doesn't fall under Purpose B but outside ICANN does and then we, you know, evolve into that argument and – but…

Alan Greenberg: Kurt, it's Alan.

((Crosstalk))

Alan Greenberg: I appreciate that but it's too easy to kill and shoot down when we make it completely open ended whereas the other one is a lot more contained and perhaps defendable.

Kurt Pritz: Yes, so here…

((Crosstalk))

Alan Greenberg: Not that I'm not advocating both but I think…

Kurt Pritz: Yes.

Alan Greenberg: …they're different beasts.

Kurt Pritz: Yes, so I am, you know, I am for something that we have in this initial report that where we can say later on that we solicited comments on this issue. And so for me, you know, something like this – or I haven't read Kristina's yet so I'm read Kristina's, I'll say that either of these for me puts a stake in the ground that said, this is what we built on and, you know, whether or not we include the Whois accuracy program in this I don't think affects our later discussion. I think it might improve the public comment but I don't think it precludes our discussion on that one way or the other.

So I just want to take a second to read Kristina's because I've been thinking about what you guys – I'll make some other comments so that "an EPDP member recently introduced" was sort of a late change by me in the very last version and, you know, I think it'd be appropriate to take that back. And I'm for Alan's interjection that, you know, this purpose includes to support DNS security, it might – and include a text that it might include inside ICANN or outside ICANN that hasn't been addressed yet.

And now I want to read Kristina's. Now I'm reading Milton's. I'm so confused. You know, so I've got to say that if we want people to understand what the issue is that Milton's raising of Purpose Number 2 is what one of the issues is. It's sort of asking the community for input on maybe a legal and not policy issue, I'm not sure. Margie.

Margie Milam: Yes, no I was looking at the language. I do think that Kristina's language is a little broader in that you could at least have a DNS on the Whois accuracy reporting system but I believe Milton's doesn't so that's why I thought Kristina's is probably better.

Kurt Pritz: Okay, Margie, thank you very much. Could you explain why that is? Why you think that? Because if that's what you think and that's true then I'm for it but I don't – go ahead.

Margie Milam: I'm sorry, Milton, maybe – can you explain what language you changed? Maybe I read it too quickly.

Kurt Pritz: He took out – instead of the "needs and benefits provided by DNS security and stability research," he just has, "to address the needs provided by DNS security and stability research," did I get that right, Milton?

((Crosstalk))

Milton Mueller: …the need for DNS security and stability research. So there's no – there was just elimination of what I thought were too many words, that's all. Instead of "to address the needs and benefits provided by," it's "to address the need for," it reads the same. But I don't really care that much about that copy editing. All I care about is that we specify Purpose 2 and that's the main thing I think we have to direct people to is that our main argument and the reason we're not happy with this alleged new purpose is that it's already encompassed by Purpose 2 and I think people need to be steered to that if they're going to make an assessment of that claim.

Kurt Pritz: So, Milton, I understand that but I – so I think I get what Margie's after because the way you've worded it here makes that the sole consideration. And on a certain level it might but on a certain level it might not; there's other considerations too. So I think that – I like the idea of including – considering Purpose 2 but – I'm repeating myself – but I think maybe the way you have it worded here limits the comments to that as opposed to other things. Alan.

Alan Greenberg: Thank you. The reference to Purpose 2 I presume is now reference to Part 2 of Recommendation 1; I don't think we're calling it Purpose 2. And if I'm

looking at the right thing, that is talking about access only for legitimate third party interests and I don't see how ICANN itself is a third party.

Kurt Pritz: And I can – for this purpose, you know, I might be able to argue both sides of that and that – I don't know. So yes so I like Lindsay's comment about it was proposed, "it was recently proposed" rather than, "an EPDP member proposed," so let's do that. So while I agree with Alan's assessment, I don't know if my, you know, Alan's assessment, my agreement, Margie's agreement carries the day. Hadia.

Hadia Elminiawi: The thing also about putting Purpose 2 or Purpose B that speaks about legitimate interest it's – I think it's purely legal question (unintelligible). And we could have many arguments on that and if we go back to the GDPR and for the recitals and within the articles, there is a distinction between both. So I don't think it's fair to (unintelligible) that – to put this (people) in a position to comment on a legal matter.

Kurt Pritz: Thank you, Hadia. Stephanie.

Stephanie Perrin: Yes hi. Stephanie Perrin for the record. I just put up my hand to explain to Alan how ICANN could be a third party. If ICANN is not the controller and not the co-controller, and they're not a processor, because this is not a processing activity has been granted to them by whoever the controller and co-controllers are, then because the GAC is not a co-controller, then this is a – they're a third party for the purposes of this activity.

So as I said earlier in the chat I believe, and as I've tried to express that time when I was cutting out, all of this accuracy reporting stuff is up in the air regardless of what the RAA says, until such time as all of these responsibilities are sorted out. Data quality is a registrar's problem at the moment and the fact that ICANN is doing it it needs to sort out exactly why it's doing it. Thanks.

Kurt Pritz: Go ahead, Alan.

Alan Greenberg: Thank you. I can address two of those issues. We've considered a lot of controller possibilities, ICANN not even being a partial or a joint controller, I didn't think is one of the ones that is likely to be on top of the list. So, yes, if ICANN is none of these things, we are a third party. We are however, setting the rules so I think that's a rather edge case. In terms of the registrar doing it, the accuracy reporting system, among other things, looks at the overall ecosystem, not just that of a particular registrar and therefore it cannot be a task for the registrar to do. Thank you.

Kurt Pritz: Here's where I think we are, and I don't know if this is helpful thinking or not. I see a lot of support for Kristina's version here. And I think the question for us is whether we want to then add something about a comparison for Purpose B or 1(b). Hadia and Kristina?

Hadia Elminiawi: I do the like – the (unintelligible), the second one, I don't know by whom (unintelligible). Actually I refer again to the – talking about which should it be a research purpose or some other purpose, and again choosing this purpose or a research purpose or another purpose will have implications on the data subject. And therefore I think we should name it – keep the name – it's a research purpose and we should have the name as it is, especially that there is a purpose for research and the GDPR. So why would we (unintelligible) and another purpose or give it another name? And again, it has different legal implications, some of which are the data subject's rights.

Kurt Pritz: Thank you, Hadia. Kristina.

Kristina Rosette: Kristina Rosette for the transcript. Two things, first, I think we need to keep in mind that we have been working on these purposes for many weeks. Most of the people who are going to comment, have not. I think it's really important that if we think that there is or that there – it's a possibility that some other purposes could cover this, that it's helpful and I think important for us to sign-

post those for public commenters because otherwise it's just a, you know, it's like basically saying I can't even think of a good analogy right now, but I think – I don't think we're going to get very helpful answers to these new other purposes agreed upon by the EPDP team already encompass this proposed purpose, unless we give at least the – potential universe of the ones that could apply.

And second, although because it keeps popping up and going back and popping up and going back, so in the event that it's going to pop up again, I am very strongly opposed to including any reference to accuracy in here; I never once heard Benedict mention in any of the discussions that we had in which he put forward this proposed purpose the concept of, you know, of accuracy. And I think trying to attribute it to this purpose is conflating two things. And to me that's just not appropriate especially because, you know, he's not here to kind of weigh in. Thanks.

Marika Konings: Kurt, you may be on mute.

Kurt Pritz: So I am. So I'm for Kristina's version here and depending on that, the sign-post that Kristina mentioned about the team seeks community input, you know, whether this proposed purpose should be added and then after that say – and whether other purposes such as Purpose 2, so opening it up to others already encompass this proposal, then please provide rationale. So I think that's where I am. And that's what I'm hearing from you guys. So, Milton.

Milton Mueller: Yes, I guess there's no need to say anything because I kept seeing this specific reference to Purpose 2 dropping out of versions but now I see it's back in and I see you're agreeing, Kurt, so I think we have to do that for the reasons Kristina specified. Also would like to amplify their comments about the accuracy reporting system that again is all kinds of issues that haven't been fleshed out, not been properly considered, some people think they're out of scope. We can't just throw these things in like (unintelligible) grenades

and at this stage of the game. We really want to finish this report today and we've already spent probably an hour of our – half of our time today on a purpose that was thrown in at the last minute so I really don't want to add new issues. Thank you.

Kurt Pritz: Alan.

Alan Greenberg: Just to point out that I don't disagree that conflating accuracy with this one is – ends up being confusing but I think it needs to be mentioned somewhere; it's been raised continuously since Los Angeles. And it is a controversial issue; we've heard that on this call. I think we need to solicit input on it. Thank you.

Kurt Pritz: I think that…

Alan Greenberg: And I'm not talking about accuracy in general; I'm specifically talking about the accuracy reporting system. And I'm glad to provide a one sentence or two sentence description of what it is if that's necessary.

Kurt Pritz: Where have we memorialized – I guess for Margie, right, we memorialized the fact that this issue was in our future discussions and I wonder if it would be acceptable to everyone if we – in that footnote or, I don't know if it's a footnote anymore but in that area in the report where we say we're going to discuss this issue going forward, that was part of the full discussion last time about the effects on the contractual – Whois contractual requirements, we put this statement in there. I wonder if we could add the words to that, you know, Whois accuracy and the Whois accuracy study.

Margie Milam: This is Margie. If I could respond? If we put it there and just have, you know, be it part of a placeholder we're going to have further discussion on, I think that would be fine because obviously it's something we haven't discussed. And this is – it's research related to accuracy but we're going to have the broader discussion later so that seems to work for me.

Kurt Pritz: Anybody else? All right so will you include – Marika, will you include the IPC?

Marika Konings: Yes, this is Marika. I have now – or Alan suggested some and I think BC IPC have confirmed and ALAC, and I just maybe hear from GAC members whether they want to have their name listed here or not.

Kurt Pritz: Well okay, you don't have to go around the room; if anybody puts their name in here we'll put it in here.

Marika Konings: No, it's just – it's only from GAC reps whether they want to – and, you know, if they can tell me later today that's fine as well.

Georgios Tselentis: This is Georgios. I think yes on – I have to consult with my other GAC colleagues but I think that's fine as it is now and I think we should move on.

Kurt Pritz: Yes, everyone is happy with that then, right Lindsay? Okay so we're going to do that and we're also going to update the notice about the Whois accuracy discussion. All right so great. So I want to talk about next steps for publication and I want to give a brief description of the public comment form. And if you guys maybe Caitlin can share her screen? So I'm trying to find – so the idea for a different way of soliciting public comment, first is to be most helpful to us.

                  So, you know, from my way of thinking the public comment form is not for, you know, who's on which side of an issue or who approves of certain language and who doesn't but it's rather to get people's thinking and rationale about why that is because what we want are different ideas or thoughts or approaches that we have not discussed in our deliberations. You know, I personally think we've covered the field pretty well but it's our duty to see if there are other thoughts out there where we haven't raised certain issues or had rationale or other types of discussion, you know, create new types of rationale.

So I really – and so I wanted to create – we wanted to create a public comment tool that, one, really tells people, you know, we don't want to know yes or no; we want to know what you're thinking; and two is, we want to do it in a way that's easily sortable so that you guys can easily read, you know, all the rationale on this issue lumped together. So the support team did a research task and arrived on this tool that's Google Forms that allows for exactly that.

And the formatting of it is a tiny bit awkward, we're working through that, but we think – so this is, you know, I'm behind this so I think that we want to try to attract comment in a way that's really meaningful and really easy for you to adopt. So I don't know, you can – we'll take you through this and then we'll send the link so you can kind of see where we are on the topic. There's still some word-smithing to be done as we move the information from the report into the comment form and pose the questions but I wanted you to be able to – I want you to be able to look at the tool and the way we're going about this.

So the first – I'm just reading through the comment to – so people will be able to file comments without using the form but we're going to try to discourage that. Ayden, do you have a – you have your hand raised.

Ayden Férdeline: Thanks, Kurt. But maybe you want to go ahead and explain it first, I just had a question about – a question that I think you're probably going to address and that was simply would submissions be public and maybe it'd be visible if we did use this form, which is (unintelligible) standard process. It's a publicly archived inbox, anyone can see the submissions from the (unintelligible). I am just wondering if that is going to be the case as well or if we would only see the responses after the 30-day comment period is closed?

Kurt Pritz: I don't know. Caitlin, can you answer that? Caitlin says "immediately" but go ahead and use your words, Caitlin.

Caitlin Tubergen: Hi, Kurt. Can you hear me?

Kurt Pritz: Yes.

Caitlin Tubergen: Okay thank you. Thanks for the question, Ayden. This would function similarly to a normal public comment filing in that if someone or a commenter submits their comments they will be populated into a publicly available document. However, the email address of the commenter would be redacted for purposes of publishing into this spreadsheet but the comments would be immediately available to the public upon submission.

Kurt Pritz: Thanks, Caitlin. If – maybe you want to make this letter full screen but I just want to take you through the major points of the introductory letter and that is one is the goals for the new format, which are – to clearly link the – sorry, my computer just burped – to clearly link the comments to specific sections in the initial report so we know exactly what section they're talking about; to encourage commenters to provide reasoning or rationale; and to enable the sorting of comments so you the EPDP team can more easily read it.

There is no – even though it's a form to fill out there's no obligations to complete every blank or comment on every part of the report. There's a table of contents at the outset so people can see where the different sections are and sort of fast forward through the comment form in order to comment on those sections that are important to them. You know, we stated in the opening letter that's it's important to include rationale and really try to bring home that we're more interested in your reasoning than the – than your conclusions and so we want to hear that.

And then there's a section in this letter that outlines the steps one has to take in order to save your work so you can start using the form and then save your work and then come back to it later, but you have to be careful to click Submit at the end and then so you can get back in. And then there are some note here at the end of the letter that says, you know, encourages people to

clearly reference what they're talking to in their comment but this format is designed to capture exactly the section you're talking about so that's so important.

You know, we ask people to keep in mind that their recommendations should be GDPR-compliant, which – and then for transparency purposes all comments submitted will be displayed via this Google spreadsheet, and we heard from Caitlin that that'll happen immediately upon submission. And then so then, you know, to answer I think it was Milton's question, we'll accept other, you know, we'll provide the ability and – to submit comments in other formats but we'll try to discourage that because this is sort of a labor-saving device for us. And, you know, we'll put a hard close date in here for the end of the comment section.

And the information is – yes, everything is in the report is GDPR-compliant. So I see Lindsay's comment about we're not asking to publish the name of the commenter. How will that be displayed, Caitlin, do we know?

Caitlin Tubergen: Thank you for the question, Lindsay. So what we're trying to shield is the email of the commenter. However, if someone is commenting on behalf of a group I believe that will be displayed in the spreadsheet. But we can certainly get back to the team with more information on exactly what will be showed publicly and perhaps do a field test and show a screen shot so that you can be more certain about what it will ultimately look like and what will be displayed publicly.

Kurt Pritz: So, Ayden, I'm seeing your concern and I'm not so sure people can't do that now. So let's – Caitlin, can we look into how comments are solicited now and how people self-identify and then see if there's any way we can't draw an exact parallel with how this will be displayed in this report?

Caitlin Tubergen: Yes.

Kurt Pritz: Thanks. Okay so let's go through this first section that solicits comments on the purposes for processing registration data. So, Caitlin, can you just take us through that?

Caitlin Tubergen: Sure. Thanks, Kurt. This is Caitlin Tubergen for the transcript. So as you can see, we lay out all of the recommendations within the form and then ask specific questions tailored to that recommendation. So the first recommendation is that encompasses all of the purposes is a bit of an anomaly. However, what you can see is that the recommendation notes the purposes for processing that the EPDP team has drafted in their report or has recommended in their report. And we isolate each of the purposes and then ask the commenter to provide a level of support kind of similar to the triage report, and then there are separate questions for each purpose.

So if you disagree with a purpose, please provide your revised wording below, and then please provide the rationale for the revised wording. And it goes through each of the purposes separately and asks for again the level of support, proposed edit or deletion and then rationale. So that way when we get the Google spreadsheet, which will compile all of this feedback, provided that people use the form, we'd be able to see all of the proposed revisions and rationale for those revisions for Purpose 3 isolated so it would hopefully make the review process much more streamlined.

And, Kurt, I can't see the comments so please if anyone has raised their hand or has comments I'm happy to answer them but I think that gives an overview of what we're looking for rationale, support and proposed edits, so I'll hand it back over to you.

Kurt Pritz: So we can look at other pages similarly for other recommendations. There's a tick box for asking whether you agree with the wording of this recommendation or whether you agree with the principle of the recommendation but want to edit the wording or more substantial change is required or you think, you know, the recommendation should be deleted and

then after each one of those – after each one of those it asks for the rationale for your response. And we worded the, you know, the rationale for the response generically, not just of you disagree so if you agree completely and want to provide rationale that's encouraged too.

Also included in the survey are questions for the community so, you know, specific issues that have been raised by us that are put in the initial report that are not recommendations but questions they're included too so we have the 25 recommendations and I think we have like seven sets of questions or something like that. Milton.

Milton Mueller: Hello yes. I have to go but I just wanted to make a point while I can still say here that I hope that you include some general open-ended spaces for people to comment whose ideas or comments will not fit into any of the preconceived categories.

Kurt Pritz: Yes we have and, you know, that's – when I was reading through this in the last couple days that's – we might change the wording on those a little bit because I'm not so sure it's abundantly clear that there are very open sections so but the really short answer to your question is yes. There's one – there's an open-ended question at the end of each section and then there's open-ended question for the whole thing. Milton, thanks for your participation.

So what I – so given that we're still doing some rewording and reorganizing but we think we're 85% of the way there on this, we'll share the link and at the end of this call so you'll listen to the three things I have to say here and I'd be pleased throughout the day and tomorrow to get comments on this.

As far as the rest of the steps going forward, we're going to schedule a community webinar to go through the initial report. My opinion is, but I'm happy to change it, is that, you know, for the webinar I would vote to have the support team take the community through, you know, the organization and different chapters of the initial report and the comment form and how that

operates so that everybody is off and running, point out where things are and not – but I'd be happy to organize a session similar to what we did in Barcelona where the team members talk about the work that was done. But maybe the shortcut to that is do a replay of that or something like that.

But so my idea for a community webinar is to, you know, here's the initial report, it stands on its own; here's how it's organized; here's – and here's how to us the public comment form. If we publish the report on Wednesday, tomorrow, we'll schedule the webinar for the following Thursday so Thursday the 29th. If we don't publish it until the end of this week or the first of next week we'll put that webinar off to the following Tuesday, which I think is December 4, but I'm not sure. So that's the plan there.

And so, Marc.

Marc Anderson: Hey, Kurt. It's Marc Anderson. You were so quick there, I assume you were anticipating my hand. You talked about if we publish so naturally my question here is, you know, at the start of the call you talked about potentially publishing tomorrow depending on how today's call went. So I don't like ending the call on an "if we publish tomorrow" so I'm looking for a little bit more concrete what – where are we as far as publishing and then I guess a request from me is can, you know, before publishing can the working group be provided with a proposed final initial report version so that we have an opportunity to take a look at that before it's published? Thanks.

Kurt Pritz: Thanks. So I think we have all the pieces of the initial report save for Thomas's last edits to the roles and responsibilities so, Thomas, if you could send that in if you're still on the call; and if you're not we'll find you, send that and then we will send to the group – yes, Thomas is still on the call – so we will send to the group the final version of the report and the plan is to publish it Wednesday.

And the only "if" is if – if somebody raises their hand and says, we cannot publish it this way because I have noticed this thing in there that we must change. But that's a pretty high bar and I would advocate for us to – I would state that, you know, for what we said we had to do coming out of the Barcelona meeting we've done all of that and so the – and so for me delaying publication would only improve the report incrementally and probably not improve the public comment at all. So that's why I've reached the conclusion that I hope you agree with that, that we'll publish the – process the – publish the initial report tomorrow.

Marc Anderson: Yes, thank you Kurt. I was just looking for – yes, just looking for confirmation on what the plan is and also like I said, please make sure that working group members are provided with a, you know, a proposed final version of the initial report ahead of time so, you know, as you said we have the opportunity to look at it and, you know, and, you know, make sure there's nothing, you know, nothing accidentally or otherwise in there that, you know, would be considered a show-stopper.

Kurt Pritz: Great, show-stopper is the word I should have used. So, Thomas, if you could get that revised language to us as soon as possible we'll send the final version of the report out in a couple hours time I hope. So the plan is for us to publish that to this team, the team has the ability to review it, if there are any show-stoppers you need to get back to us I would say, you know, by early morning my time tomorrow which would be the rest of the day. And then we will publish it.

You'll also be given a link – you can put the link in if you want – to the comment form so you can scroll through it and see how it works. Any recommendations on that especially from an operational standpoint, you know, an ease of use because we're trying to encourage comment would be appreciated. So I hope that provides enough detail to everyone.

So talk to you guys in a week. So the next meeting will be Tuesday, a week from today, same time same place. All right so those of you that have a holiday coming up, have a great holiday. I'm available all the time if anybody wants to raise any issues. And thank you so much for your constructive discussion. Have a great day. Have a great weekend.

Terri Agnew: Thank you, everyone. Once again the meeting has been adjourned. Operator, if you could please stop all recordings? To everyone else, please remember to disconnect all remaining lines and have a wonderful rest of your day.

END