ICANN Transcription

GNSO Temp Spec gTLD RD EPDP - Phase 2A

Thursday, 29 April 2021 at 14:00 UTC

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ANDREA GLANDON: Good morning, good afternoon, and good evening. Welcome to the EPDP Phase 2A Team call, taking place on the 29th of April, at 14:00 UTC.

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

Thank you. Hearing no names, we do have apologies from James Bladel with RrSG. He has formally assigned Owen Smigelski with RrSG as his alternate for this call and any remaining days of absence. All members and alternates will be promoted to panelists for today's call. Members and alternates replacing members, when using chat, please select All Panelists and Attendees in

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

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

If you do need assistance updating your statement of interest, please e-mail the GSNO Secretariat. All documentation and information can be found on the EPDP wiki space.

Please remember to state your name before speaking for the recording and transcription. Recordings will be posted on the public wiki space shortly after the end of the call. As a reminder, those who take part in ICANN multi-stakeholder process are to comply with the expected standards of behavior.

Thank you, and over to our Chair, Keith Drazek. Please begin.

KEITH DRAZEK: Thanks very much, Andrea. I appreciate the introduction. We will go ahead and get started. Welcome, everybody. Good morning,

good afternoon, good evening to the EPDP Phase 2A Meeting #18 of the 29th of April, 2021. So we will go ahead and get started. I'll do a quick review of the agenda, as always, and then we'll jump right into it.

I see a couple of hands up already. So, even before getting to the agenda review, Volker and Laureen, if you'd like to say something. I was going to suggest that, as we look at our agenda today, we get into the substance immediately but then reserve some time at the end of our call for a discussion of logistics and documents. I understand there's been some questions and some concerns raised about the number of documents—perhaps some confusion around the intent or purpose for each of the documents and essentially an acknowledgement that it's a little bit complicated right now. I think there's conversation worth having about how we can streamline this, perhaps, and make the guidance and the purpose of the documents more clear. So I acknowledge that. I've seen some e-mail traffic. There's obviously some, I think, question or concern about the complexity of what we're dealing with here and all the moving parts.

I see Laureen and Volker have both put their hands down at this point. Laureen is saying, "Happy to have that conversation at the end." So I appreciate that, folks. I know there's a lot of moving parts. Staff is doing as best they can to keep up with all of the iterations, and we can talk about that a little bit at the end of the call. But I'm certainly acknowledging that we've got a challenge there and we should talk about it.

With that, let me just tee up the conversation today. We're focusing today on the topic of legal and natural. We are, today,

focusing specifically on the consideration of the question of whether any updates are required to the EPDP Phase 1 recommendations on this topic, which is that registrars and registry operators are permitted to differentiate between registrations of legal and natural persons but are not obligated to do so. So the question before us today from each of the groups represented in the EPDP is basically a sharing of each group's position on the question of whether this differentiation should move from voluntary to a requirement.

Under the next heading, we have nine different groups to report. Essentially, looking at the time we have available, I'm going to ask each group, in the order that's in the agenda, to present for five minutes and no more. We're going to go through each of the presentations, summarizing the language that has been put into the table. Thanks, everybody, for the contributions. But it's essentially a five-minute intervention from each group without interruption. I'm going to ask everybody in chat to remain focused on the actual presentation before us and not get sidetracked in chat conversations that detract from or distract from the conversation that's taking place in the presentations here. Then we will have an opportunity following that and then on a following call, as needed, to have a conversation or a dialogue about the various points.

Let me pause there. Alan, I see your hand. Go ahead.

ALAN GREENBERG: Thank you. Just one quick comment. You said we're discussing whether there are any changes need to Phase 1, and then went

into the requirement of differentiating between legal and natural. There are other changes to Phase 1 that we have discussed, and the question is, are we discussing that now or not, particularly whether there needs to be an RDDS field identifying legal/natural if it is filled in? But the existence of the field was not defined during Phase 1, and that's one of the things that we've discussed many times here. So I'm just noting that. That's at least one. Possibly there are other Phase 1 changes that are part of this overall decision. Thank you.

KEITH DRAZEK: Thanks, Alan, and thanks for flagging that. It's a good question. I think what we're talking about here today specifically is a response to that particular question that I read and that is on the page in the agenda and that was specifically called out in the charter for the work of this group. So I take on board your point that there are other potential changes, but I think for the purposes of today's discussion, we're looking for a summary of each of the groups' points and text focused on that specific question.

Look, folks, this is the opportunity for us to put cards on the table to have an open and frank presentation and then ideally a discussion on where each of the groups stand on that specific question so we can document it for inclusion in the initial report so that we have essentially worked and documented the view of each group as we answer this question outlined in the charter.

So, Alan, thanks for that. I don't know if you have a follow-up. Your hand is up. If that answers the question, then perhaps we can move on.

Okay. Thanks, Alan.

With that, let me pause and see if anybody has any questions or comments on anything else on the agenda before we jump into the substance. Then, as I said, at the end of the call, we'll move to a discussion about the logistics and about the various moving parts and documents that we're dealing with. I'll turn to Caitlin and Berry to help us walk through that when we get there.

Just a note that Marika is not on the call today.

With that, let us move then to the actual … Let's just jump into the conversation here. If we could scroll back up on the agenda briefly, this is the order. We're going to start with ALAC and then go to the BC. So if I could turn to our ALAC colleagues for an introduction and a five-minute summary of the input that you've provided in the document on that specific question. I'm going to start a timer. I will put into chat when we're getting close. Let's try to keep to the five minutes. Thanks, everybody. Over to ALAC.

ALAN GREENBERG: You didn't give us any advance notices of how we're going to be doing this. I'm happy to have Hadia do the main presentation and I'll come in at the end if Hadia is prepared to do that.

HADIA ELMINIAWI: Thank you, Alan. I will start and then leave it to you to continue. Basically, in order to consider the answer to this question, we need to rely on the pieces of information that we received. So far,

we received two pieces of information. One is the Bird & Bird memo and the other is the ICANN study.

The Bird & Bird memo indicates that differentiating between legal and natural person types before differentiating between the data and then disclosing the data based on those two kinds of differentiations would reduce the contracted parties' liability. They even go further to say that contracted parties' liability in such a case could only be in relation to their failure to respond to a complaint. So that's one piece of information.

The other piece of information is in relation to practical implementation of differentiation. We have the ICANN study that covered the practical implementation of the ccTLDs that do that kind of differentiation, and all of them differentiate first between the registrant type before differentiating between the data type.

Another point here that we definitely all agree on is that some legal people—persons or data subjects—would like to publish their data or would like their data to be available to the public. For that, all we have now is consent. So, bearing in mind that contracted parties bear the liability, bearing the legal memo that we got that says that differentiating between the registrant type first reduces the liability of the contracted parties, it might make sense to have available, in addition to consent, the ability to differentiate between the registrant types. So that's mainly why we would see differentiating between registrant types first as a requirement and not as an option necessary, especially since differentiating between registrant types alone does not add any additional risks to contracted parties because contracted parties would never consider the processing of the data, whatever it is,

based on the registrant type, but they will need to do that based on the data [type] as well. So, actually, we see no reason for contracted parties not differentiating first between the registrant types before differentiating between the data type.

So we think that differentiation between registrant types should be a requirement, and the differentiation between the data type maybe could be optional. But registrant types need to be a requirement.

I'll stop here and give the floor to Alan.

ALAN GREENBERG: Thank you very much, Hadia. I think that pretty well sums up what we want.

I wanted to emphasize a couple of points. During Phase 2, we spent a lot of time talking about the way in which queries would be processed. The case was made at that point that registrars could not even look at the data which is processing prior to evaluating whether the request was reasonable or not. The Bird & Bird memo clearly says just the opposite: that the differentiation is important because you shouldn't have to look at the query if the data in in fact the data of a legal entity. So that changes the whole process of whether to release or not. In this case, of course, if it's a legal entity, it doesn't have to be released. It should be made public.

The ALAC understand that, for the existing base of 200 million (roughly) domain names, we're going to have to have some perhaps multi-year process for getting all of those differentiated, but the process has to be started sometime soon, and we need to

start assigning legal/natural designation to new registrations as soon as this policy is implemented. In our view, that has to be done at registration time. We understand that some registrars use resellers, but resellers are not an excuse. The RAA makes it clear that registrars have to pass the responsibility down to the resellers. That's simply the way it's going to have to be if they're using that kind of business model.

And I thank you.

KEITH DRAZEK: Thanks very much, Alan and Hadia, for going first. That was an excellent five-minute summary. I really appreciate it. Let us now move to the BC, and then we'll go to the GAC following that. Over to BC colleagues.

MARK SVANCAREK: Thanks. I think the statement that is briefest is probably best here and you can see that in our written comments. The DNS is critical infrastructure. This has been established in many places for some time and, as such, the ownership of that critical infrastructure should be as transparent as possible.

Now, we know that most registrations are of legal persons. There's been a variety of studies done on that. I've never seen one that says it's not a majority. Some have said it's a significant majority. So a goal of transparency implies that all of these legal person registrations be made as freely available as possible. If we have a global policy enforced by ICANN, that will lead to the best results. If there are laws that would produce a result, having a

global policy that creates consistency in addition to those laws would make an even more clear what needs to be done and result in the most consistent outcomes.

Regarding what has convinced us, I would say that the publication of the NIS2 directive has convinced us the most, but honestly, we were of this opinion even in the past as the various legal memos came in. They generally matched our understanding of the law that had existed before. So I wouldn't say, really, that there was something that happened that convinced us, which I think was the question that we were asked.

So hopefully that brief summary will explain where we're coming from. Thank you.

KEITH DRAZEK: Thanks very much, Mark. If anybody else from the BC would like to weigh in at this point, you're more than welcome to do so. You've got three minutes on your clock.

MARGIE MILAN: Sure. If I could just follow-up on what Mark said.

KEITH DRAZEK: Sure, Margie. Go right ahead.

MARGIE MILAM: In terms of a requirement, the BC stands behind the requirement of having a publication of data that relates to legal persons. So, as

we've gone through this work, we understand, if we're going through the approach that others have suggested, that, where someone has self-designated as a legal person, all of their contact information should be published unless they've identified that there's some sort of natural person data related to it. So we feel that there must be a requirement for that.

There also should be a mechanism if we are relying on the self-designation to correct it if designation is incorrect. For example, in scenarios where there might be a notice that there could be a problem within the registration, such as an WHOIS inaccuracy requirement or perhaps a DNS abuse notification, that might be a trigger point in order to reevaluate the initial designation. So the policy should include some sort of corrective mechanism in order to change any incorrect designations.

Thank you very much.

KEITH DRAZEK: Thanks very much, Margie. The BC still has a minute-and-a-half if anybody else would like to get in queue. If not, we can move on.

All right. Seeing no hands, thank you very much.

We will turn now to our GAC colleagues. Thank you.

LAUREEN KAPIN: [Hi], folks. I think most everyone knows their positions already, and certainly they're fairly consistent with the views we've jus heard from our ALAC and Business Constituency colleagues.

So what I want to emphasize is that, when we take a few steps back, this really starts with the recognition that information [that] is currently masked and is not protected under the GDPR. I'm very much aware of the nuances here and the European Data Protection Board's letter that Sarah has referenced and also the legal advice we've received from Bird & Bird, but I feel this starting point is very foundational—that essentially the current policy protects information that should be public. How can we move forward in a way that's consistent with the law and protecting people's privacy but then also serves the public interest in making information that isn't subject to protection available for the many constituencies that use that information to public interest, whether it's fighting cybercrime, investigating criminal behavior, investigating counterfeits/piracy, etc.

That's really the thrust of our comment. There's some statistics there that talk about the number of domains registered by legal persons. We all can debate about studies and we all can say, "Well, this statistic is not valid because you measured the wrong thing," or, "It was funded, so we can trust anything it says." We can debate until the cows come home, but many times, people are asking for data, we provide data, and then they say, "Well, that data is not any good." I just don't think those discussions are very productive. But there certainly is a recognition that many registrations are by legal entities, and large parts of that information are not protected and would serve a public interest by being published.

The last point I would make is the issue of flexibility for different business models and the timing of when designations about

whether the registrant is a natural entity or a legal entity should be made. Here I think this really needs take into account the realities of when things happen with the contracted party that is actually collecting the information and interacting with the registrant.

My understanding—please, registrars, I invite you to correct me if I'm mistaken because I welcome more information here—is that this is almost always done before registration, that, if a reseller is involved, the reseller is collecting the information from their registrant customer before registration. Therefore, that would be the best time to deal with this. If it's a registrar that isn't a reseller, then, to the extent they themselves are collecting the information, it would also be before registration. If it's a registrar that has a reseller, all the contractual requirements in terms of collecting that data and then ensuring that it is accurate would run through to the reseller. So, again, it seems that everything points to the timing of "at registration." So, if that's incorrect, I would very much welcome more information and discussion on that.

That's it.

KEITH DRAZEK: Thanks very much, Laureen. We have about 40 secs if any other GAC reps would like to contribute.

Going once … going twice … Okay. Thank you very much.

We will now turn to IPC and then we will go to the ISPCP. So over to IPC colleagues.

BRIAN KING: Thanks, Keith. I can get us started. I'm sure I'll leave plenty of time for Jan. I don't know what to say on the microphone here in addition to what we've put in the document. So, sorry. I find this exercise a little bit bizarre, but I'm happy to go along.

So, on why we think a distinction needs to be made, the data is useful, it's in the public interest, it's largely not available, and there's not justification for redacting, concealing, withholding, or not publishing legal person data.

I'll tell you I'm here to represent the IPC, but from the contracted party perspective, I'm real concerned about secondary liability these days, Keith and others. Living relatively close to Washington, D.C., we hear a lot about platform liability and secondary liability and pressures to hold platforms and intermediaries accountable. There's talk of revising the DMCA. I worry for an outcome that results in contracted parties being liable for the bad things that happen on websites. The availability and access to WHOIS data has historically been the reason why registries and registrars are not liable for the bad things that happen on websites that they enabled to be connected to the Internet, that benefit financially from, become aware of issues on, and have the power to control. All that adds up typically to liability. Providing WHOIS data about the real party that's committing whatever bad thing on the Internet has been the reason why contracted parties are a lot liable.

I have a real worry that, if contracted parties say, "We can't make a distinction and we're going to redact all data, even though the GDPR doesn't apply to it," that's not going to play well. That's not going to be persuasive against the common-sense argument that

it's not personal data and you redacted it anyway and you won't produce it. A lot of the contracted parties on this call are reasonable and will produce the data in response to a request, but so many won't. I'm worried that it might cause a problem, I guess.

I'll end there and see if Jan has anything to add. Thanks.

KEITH DRAZEK: Thanks, Brian. Jan?

JAN JANSSEN: I think Brian did a perfect summary. So, in the interest of time, I will leave the floor to the ISPCP.

KEITH DRAZEK: Okay. Thanks very much. We'll head over to ISPCP. Thank you.

THOMAS RICKERT: Thanks very much, Keith. I will start and then Christian will add to that. Actually, we haven't put a lot of this text into the response, but this is just to confirm that we haven't changed our position from the early input during the EPDP Phase 1 phase of this exercise.

So we think that there should be as much uniformity in the treatment of registration data as possible. We think it's important that registrants get an appropriate level of protection regardless of where they are with respect to the geographic distinction that's

been discussed as well but also with respect to disclosure of the data.

So, certainly, if there's a standardized process, a distinction can be made, but we worry that, potentially, given all the complexity that was discussed so much in so many sessions now, the distinction between legal and natural might not be the ideal one because it boils down to whether personal data is in place or not. As we've discussed earlier this week, indeed, the data of legal entities is not protected, but whenever the data of individuals is included in the legal entity's data, then the data of that individual is protected.

So we think that probably the better starting point for us to get to consensus would be to base the trigger for publication on personal data versus no personal data being presented.

Also, since GDPR is the highest common denominator when it comes to privacy law, we do not share the view that the risk is only with respect to contracted parties, as the question suggests. We're not going tired of reminding everyone that the risk is also with ICANN Org if there is a systemic error in the policy recommendations that we make and that might then get implemented. So we need to make sure that we don't create legal issues or legal exposure for ICANN Org as well.

With that, let me turn it to Christian.

CHRISTIAN DAWSON: Sure. As a non-lawyer who's not looking at it from that perspective, I wanted to take a moment to give you some insights

as to how we approached our thinking. Part of it was putting ourselves in the mindset of somebody who is running on ISP. We were imagining what it would be like if it was our technology that was put under the same type of scrutiny that we're putting it under for Question #1.

As you know, a broadband connection is something that can be used for nefarious purposes. It can be vectors for abuse. It can be a source of DDoS attacks and botnet attacks and things like that. There is not currently a requirement that we delineate between a business account and personal account, nor that we publish the details of a business or legal person's details for a broadband connection. That's something that we would push back on. So when we were doing that exercise and thinking about how it would apply to our own business if we were under the same type of situation, we realized that we couldn't in good faith go ahead and support that type of requirement.

The other thing that we as ISPs were thinking about is that, as ISPs, we're very aware of the fluidity of the use of technology. I'm working from home on a broadband connection right now because we're during COVID times and I'm not going to the office. And, throughout the day, I'm using my broadband connection for both business and personal use.

Now, why is that relevant when we're talking about domain names, which we think as something as having a fairly fixed purpose? Because, when it comes down to it, we understand that that's not how things necessarily work in reality. People have home business. They have portfolios of domain names that they can choose to try out for using for other business or personal

usages. We are in a situation where 99% or more of businesses are small to medium-sized businesses. 97% are sole proprietorships. So legal person and natural person data is predominantly the same data. We keep on talking about corporations as if we're talking about large corporations, but that's really the statistical anomaly. And about 50%, according to the SBA in the United States, are home-based business.

So, when we take a look at that, we realized that, just like broadband usage in environments like this, usage is full of gray areas and it's often hard to distinguish.

Thomas, I'll throw it back to you.

THOMAS RICKERT: That's all for this question. Over to you, Keith.

KEITH DRAZEK: Okay. Thanks very much, Thomas and Christian. I appreciate that.

Before we move on to the NCSG, I would like to just take a moment. There's a point of order from James in chat, I think, basically asking that we ask speakers to keep to the position of their own SG or C and not, at this time, focus on the positions of other SGs and Cs. I think that's a fair statement for this exercise.

Just to clarify, in response to Brian's point about not being clear about what we're trying to accomplish here, the intent—I typed this in chat—of this exercise is essentially that we're asking each group to summarize its input to the document on the screen and

specifically answer the question of whether differentiation should be mandatory and if the EPDP Phase 1 recommendations on policy should be amended accordingly or not. That's essentially what we're trying to achieve here today: to have this frank conversation. Cards on the table. Tell us what your group thinks. Summarize the document. Then we'll circle back and have further dialogue about the interventions. So that's where we are.

So I'm going to turn next to NCSG. I see a hand from Milton. Thank you, Milton. Over to you.

MILTON MUELLER: Thank you, Keith. The preference of the NCSG is very clear. We do not believe that there needs to be differentiation, that there should be no requirement to be differentiated. It doesn't hurt any of interests to just leave the current set of redactions in place.

However, there is a willingness on the part of some of us to move from our first preference in the hopes of achieving the consensus and resolving the issue within ICANN rather than having continued deadlocked and a potential intervention or some kind of rupture in the ICANN process. There's disagreement within the constituency or the stakeholder group on whether we should make any such concessions.

However, if we do produce guidance regarding differentiation—non-mandatory differentiation—we have two ideas about it. One would produce guidance that encourages contracted parties to simply allow the registered name holder to self-designate as legal, not necessarily as natural, as long as they're informed of its

implications, and registered name holders, not contracted parties, would be responsible for ensuring that any personal data is not in their record.

The other idea is to focus almost exclusively on the presence or absence of personal data in the record if it is to be published as legal. That would involve registrars in a process of ensuring there is no personal data.

So what I'm saying is we are somewhat flexible on the nature of the guidance, but our main interest in that is finding a space for consensus agreement because our first preference is: if nothing changes from where things are, it doesn't bother us. We're okay.

I'll hand it over to Stephanie.

KEITH DRAZEK: Thanks very much, Milton. Stephanie, you're next. You've got about two-and-a-half minutes. Thank you.

STEPHANIE PERRIN: Thanks very much. I'll try to be brief. I thought we were discussing here just simply the question on whether or not we should differentiate and not the guidance.

Yes, we are agreed in NCSG that the position we have right now from Article 6 sets us up for registers who feel they can distinguish. We are really quite divided once you get to the topic of providing guidance. Some of us think that registrants are easily able to make the distinction as to whether or not they're a legal

person. Some of us—I'm in that camp, as anybody who has read our list might have picked up—don't think that most of our population are able to make this determination.

I'm grateful to Christian for bringing up the matter of portfolios of domain names. Domain names might be registered by an individual, and then, when they are tried out, they might belong to a legal person. I think that the fluidity in these small business and non-commercial zones between how a domain name is actually put into practice is going to cause no end of grief to this process of differentiation. Very simply, the default should be on protection. We are not talking about protecting all the data. There's quite a bit of data that is still being released. And a valid request will see the data that is not out there in an automatic disclosure format being released within three business days and probably a lot faster than three business days.

So, really, the skies are not falling here if we set the default on protection, and I think that's where it should be placed.

I think that's enough out of me. Thank you.

KEITH DRAZEK: Thank you, Stephanie, and thank you very much, Milton. With that, we will move to the Registrar Stakeholder Group and then the Registry Stakeholder Group. I see Volker's hand. Go ahead.

VOLKER GREIMANN: Thank you, Keith. We're not going to reiterate everything that we've said before. I think that can be incorporated by reference.

The members of the RrSG EPDP team have participated in this process in good faith since day one and will continue to do so.

However, we need to be crystal clear that members of our stakeholder group who we are here to represent have voiced and recently reconfirmed their strong opposition to any policy coming out of this group that makes differentiation between natural and legal persons for domain registrations mandatory. We have heard plenty of vocal support in this group to do just that, but to date, the RrSG has not heard any compelling reason to create policy that makes this dramatic shift to the domain registration landscape necessary.

The relevant contracted party can make the most accurate assessment of their own legal, technical, and commercial risks and obligations, and is the only party that can determine what level of risk they should assume. The scope of this EPDP Phase 2 is to consider if changes are required for the relevant recommendations, and it has become clear through that this process that no such changes are required.

To the extent that this group can focus its energies on guidance to contracted parties which choose on their own to make this differentiation, we continue to believe that this is a worthwhile exercise. We believe that guidance materials, including educational information provided by ICANN in multiple languages, would help contracted parties educate registrants, and this would be a valuable effort. That said, based on analysis done by our stakeholder group's members, we reject the notion that the majority of registered domain names are registered to legal entities.

We further remind this team that we have not seen evidence that increased publication of registration data will address any of the problems which have been mentioned so far in this phase and that the registration data is reliability and promptly available to those who have a legitimate reason to access it.

Finally, we note that this statement represents the official position of the Registrar Stakeholder Group, and statements from other members of other groups participating in the EPDP do not represent our group's position.

Thank you. I yield back to Keith.

KEITH DRAZEK: Thanks very much, Volker. Registrars still have two-and-a-half minutes if anybody else would like to speak. If not, we will move to the Registry Stakeholder Group.

Seeing no hands, okay. Over to the registries.

MARC ANDERSON: Thanks, Keith. I'll start us off. From the registries' standpoint, we understand the task to review the study undertaken by ICANN Org on legal versus natural and the legal guidance provided by Bird & Bird. We note that the legal study by ICANN identified pros and cons of differentiating and that the legal guidance noted that there are steps that contracted parties can undertake to reduce risk and liability of differentiating between legal and natural persons but ultimately that that risk is with the contracted parties.

So, on the question of whether updates are required, we don't think they are required. We think the existing language that registrars and registry operators are permitted to differentiate but not required to is appropriate given the output of the ICANN Org study and the legal guidance that we have reviewed so far.

I do want to note that registries quite understand why it is desirable for some groups to have free and unfettered access to domain registration data. We remain committed to looking at methods and ensuring that those with a legitimate reason and purpose for action to domain registration data get that access, but we think the status quo is appropriate based on what we've heard so far.

With that, I'll turn it over to Alan Woods, who's going to expand on what I said.

ALAN WOODS: Thank you very much. I suppose it's just about, very quickly, talking about what we're trying to achieve here and ensuring that, when we do achieve it, we're not stepping into the realms of especially making legal advice under the guise of process and policy.

So, again, I think we all need to take a moment to consider the concept of what we're looking at here between the guidance, the changing of policy to a mandatory ... what we're asking specifically in that question of "mandatory," and also the means and the methods by which we can achieve such things.

Again, even though it's slightly jumping ahead—but I'll use a second [for] it—if we are to go down a route where we make this a mandatory policy, there will be a huge emphasis not just on accepting what we as a group of people trying to create a policy has come up with but also on the means by which we can get that implementation and also test that implementation before a real-world example. I refer you to our response to Question 3, specifically about working with the European Data Protection Board on that. I don't think we need to go into specific more detail on that. It's not just about creating a policy here. It's about making sure that that policy is in fact tested as best as possible. Thanks.

KEITH DRAZEK: Thank you, Alan. Thank you, Marc.

Would anybody else from the registries like to get in queue?

If not, we will move to our SSAC colleagues.

STEVE CROCKER: Thank you. We have a somewhat nuanced position. We are strongly in favor of the maximum amount of data available, and yet the simple question of whether to make that distinction between legal and natural a mandatory one or not is a bit of a distraction because, even if you make that distinction, it is neither sufficient nor necessary. So our position is that it should be desirable to differentiate and, in addition, it should be mandatory to include a field for recording the distinction, but it should also be mandatory to allow not only legal and natural as possible values but also unknown as an intermediate value, which is likely to be a

very common situation, particularly from how one treats the existing database. That allows management of the process over time. So that's one part of what we have to say.

The second part of what we have to say is that we have to recognize that this entire focus of differentiating between legal and natural is focused on how to provide the maximum amount of data publicly, but the larger purpose is, how do you serve the various public interest needs of security, of intellectual property, investigations, law enforcement investigations, and so forth? So that rests on access to the non-public information in an efficient and effective fashion. The entire focus of what we're doing here is under the cloud of uncertainty about whether some form of differentiated access, whether it's SSAD or some other implementation of that, is in fact going to occur.

So another part of our thinking and the strong part of our recommendation is that efficient and effective differentiated access must be in the plan in a timely fashion that is, at some date, certain and not at just uncertain as to whether it's going to come and uncertain as to when it's going to come. That, I think, will take a great deal of pressure off of this particular question, which has been long discussed as having a lot of different ramifications as to how you make the distinction and indeed whether or not that distinction tells you what you need to know.

Thank you.

KEITH DRAZEK: Thank you very much, Steve. Still two minutes left for SSAC if anybody else would like to weigh in. I don't know if Tara is with us. But thank you, Steve, very much.

Actually, your comments actually teed up something that I wanted to circle back to. So, first let me just pause and say thank you all very much for your attention and for your diligence in responding within the five minutes and being concise. I really appreciate it.

Next, we will turn to an open mic period here, where folks can weigh in, react, and respond. I know that there was some chat traffic going on a little white ago.

But I did just want to observe one thing, or maybe it's two things. We have a couple of variables that are still unknown in terms of their ultimate impact on these considerations and this discussion. Those two variables are the final disposition of the NIS2 proposed directive and also the status of the SSAD recommendations. Each of these have been referenced in the conversation so far or the intervention so far, even if just briefly. But these are two variables that we still have to see where they end up in terms of the implications for consideration of this.

So I just wanted to note that the end result for NIS2 and the end result of SSAD are still unknown. I think, as we consider the current state of our ecosystem and the current state of our landscape, we're attempting to assess whether policy adjustments are necessary at this time. But I'm also suggesting that, in the course of a year or 18 months or two years, we will have more visibility and more understanding of the implications of both NIS2 as well as SSAD and that that could change the dynamics—each

of those or one or both of those—of the consideration of this group. So I just want to put that out there—that we have a certain set of realities today and that, in two years' time, those realities could be different.

With that, I'm going to open up the queue if anybody would like to get in queue to essentially start a conversation or start a dialogue about the presentations made here, the summary, or anything in the document. Let's get to it. So, anyone want to get in the queue?

Alan, go right ahead. Thank you. Alan Woods.

ALAN WOODS: Thank you, Keith. I suppose this is something I wanted to say when we were given the five minutes, but at the same time, I think it's probably better to put it into a general conversation piece, mainly because I need to say that I had promised that we would do homework and we have been doing the homework along the lines of what the registrars did coming out from the registry point of view. Specifically, it's one of those questions—we did raise it in our input—about how we need to be exceptionally clear that, when we're talking about the contracted parties and the CP doing this and the CP doing that, we need to start getting more clear that it's not just about the CP. It's about how a registrar can respond and a registry can respond and why it's been so difficult to actually complete that homework: because it is exceptionally layered.

I will give just one very brief example. If we, as the people who are one step away from the registrant, are trying to deal and trying to decide or delineate between what is a legal and what is not a legal

person, we have to rely on the information provision from one of any of our contractual partners—one of the registrars. If we are creating guidance and it is optional, and that optional is something that we can build into our own decision-making process whether or not [it's an optional that] we ourselves would make that delineation based on the information and the statements of the information that has been provided ultimately to the registrant.

If that is mandatory and we're saying that the guidance is mandatory, well, then, we're going to have to look at a raft of 150 to 200, not including resellers, about how they are implementing specifically the information provision, how they're specifically implementing/ensuring that they agree to this, that the e-mails are being sent, unless we just all duplicate that effort ourselves as well.

So, again, when it comes to the registry, there's two real questions that we need to look at at the moment. How feasible is it for us to mandatorily do this based on the guidance that we're creating that has not focused yet on registries? But also whether or not there is a need for us to actually do it, considering if it's being done at a registrar level? Why is there duplication? Why is there additional processing of data for this instance, and why are we doubling the risk?

So I just want to say this to the team: when we're talking about the contracted parties needing to do this mandatorily, [is that what we're asking? Whether or not the question is or not,] we need to now start delineating between the two because there is a completely kettle of fish between those.

KEITH DRAZEK: Thank you, Alan. Milton, you're next in the queue. Go right ahead.

MILTON MUELLER: I just wanted to say that, as we indicated, the status quo, in terms of all this stuff being redacted[,]and there being no required differentiation is perfectly find with non-commercial users as a whole.

But there is concern that simply saying the contracted parties can do this in whatever way they want creates a little bit of nervousness. Most of the contracted parties that we're dealing with on this committee and the ones that we know about are very privacy-friendly and want to comply with data protection law, but there are lots of registrars in the world who might not.

Therefore, I don't think I'm getting too far out of line with respect to the stakeholder group by saying that some kind of guidance would be preferable as long as it's the right kind of guidance and that the guidance that says, "If you're going to do this, here's the right way to do it," is preferable to not having any guidance at all.

That's all I had to say.

KEITH DRAZEK: Thank you very much, Milton. Would anybody else like to get in queue at this point? The queue is open.

Stephanie, go right ahead. Thank you.

STEPHANIE PERRIN: Thanks. I'm really not here to trail after Milton and disagree with what he says, but some of us believe that providing guidance on this rather difficult matter of legal versus natural persons gets us far too far into providing advice to registrants about their legal situation. It's fraught with peril. That's what I have been arguing—not we—all along; that this is a very difficult thing to distinguish in some jurisdictions in some circumstances. It's easy for some. It's not easy for others. And it can vary across a range of domain names that might be attributed to an entity.

So providing this advice is definitely going to trigger a default, and I realize that a lot of people in this group want to be "disclose as much as data automatically as possible." We have fought, as the NCSG, rather firmly against the default being set on an automated response. Certainly, in this matter, it should not be an automated response. The level of work required to ascertain whether a registrant is correctly understanding the situation and making attestations that can be relied on in court is pretty high.

So I think—I believe quite a few people believe with me— the default must be set on protection. If guidance is going to push us towards an automated disclosure, then we don't give guidance under the policy. That doesn't mean we don't educate registrants elsewhere. We provide far too little education to average mom-and-pop registrants about what a domain name is, why they want them, how they manage them, what can go wrong, etc. (not to mention we've never provided decent information about what happens when their data is exposed and the kind of havoc that can occur from that).

So that's a whole other exercise that might become part of a new charter or rights and responsibilities for registrants, but I don't think it should be included in this policy as an adjunct to it or as guidance within the policy. That's my position that I shall continue to fight for quite a long time. Thank you.

KEITH DRAZEK: Thanks, Stephanie. I have a follow-up question for you, and then we'll turn to Alan Greenberg. So, Stephanie, I guess one of my questions in response was I understand your concern about any perception that an ICANN policy might be giving advice to a registrant, but if we're talking about guidance to a registrar, in this particular case, for how it could or should consider differentiation, is it a question of drafting? Is it a question of language? Is it a question of making sure that that guidance to a contracted party doesn't stray into advice to a registrant? I get that there's the concern that, if you start establishing guidance and best practices or expectations, the impact could vary by jurisdiction, but I'm just wondering if there's still an opportunity to provide guidance to contracted parties without straying or crossing the line into something that would be deemed advice to a registrant. So I hope I captured your point and that my question is clear.

STEPHANIE PERRIN: Yes. It's a very good question, Keith, that I've been pondering. As long as the advice that we provide alerts them to the duty to protect when there's doubt and the risk [that] they themselves are going to run into if they make assumptions on the side of disclosure […] As I have said throughout this argument here, we

have assembled here at ICANN the larger—and I would argue the more responsible—registrars. So I would suspect that there are a lot of smaller or less responsible registrars who are going to pick a default to disclose and push their registrants into making a choice that they're a legal person.

As I've said over and over again, just because you're a business doesn't mean you're a legal person. Just because you're a sole entrepreneur doesn't mean you're a legal person. So the way those questions are framed will bias a response, and I believe rather firmly that the response should err on the side of caution and protect.

So that's why I think that it's such a shadowy line. The behavior has to be responsible to aim towards protection. We've got 20 years of history at ICANN where we basically didn't bother telling registrants that they had the right to have their data protection laws enforced and not release all this data.

So I have no confidence that we're going to provide appropriate advice in some cases—present company excepted, of course. Thank you. I hope that clarifies.

KEITH DRAZEK: Thanks, Stephanie. Much appreciated. I'll turn next to Alan Greenberg and then to Milton?

ALAN GREENBERG: Thank you very much, Keith. In fact, part of what I'm going to say is related to what you were asking, at least as I interpreted it. The

ALAC firmly believes that we should immediately differentiating between new registrations and have a plan in process for how to get the legacy registrations included in that.

Should we not be able to a consensus on that—clearly, there is some question about it—then it is essential that we provide guidance and it's essential that we provide guidance including the more critical. The Bird & Bird memos made it really clear that, if we are going to ask registrants questions, we have to make sure thy understand what the questions are. We're already asking registrants, "Do you want your information public?" That was a Phase 1 decision. So we already are asking them, "Do you want information disclosed?" and relying on their certification that they in fact do. We have to make sure that the legal/natural question is couched in such a way that the registrants do understand it. Bird & Bird recommended that we do test cases and various ways of testing the questions that we ask and the briefing material to make sure that is understandable. That in fact would be a strong defense, should anyone claim that they didn't really understand what they were being asked.

So I don't understand why, when we're talking about guidance, we're not including that very critical part of suggesting to registrars just how they should couch these questions and how they should present them to make sure that, if there's guidance that we're providing, registrars, especially the smaller ones, don't have to reinvent this from scratch. The small registrars are not going to be able to do all sorts of studies to make sure that the wording they're using is valid and is tested and is appropriate. We have to provide them with words—sample words. They don't have to use them,

but they can use them if they choose. We seem to have ignored that part of the guidance altogether, and I think that's absolutely critical. Thank you.

KEITH DRAZEK: Thanks very much, Alan. I do have some thoughts and reaction. Excellent intervention. But I'm going to go to Milton and then Brian next, and then I'll put myself in queue.

MILTON MUELLER: I just wanted to make it clear that I don't—I'm pretty sure most people in this stakeholder group—actually support the idea of guidance. I really need to dissociate us from this statement from Stephanie that any guidance would constitute legal advice. I think that's just a completely invalid assertion.

But more importantly, Stephanie seems to be operating from a position that it would be best to not allow any differentiation. So that could be a valid position—it might even have support—but we're beyond that. It's already established policy that contracted parties have the discretion of whether to differentiate or not.

So the question becomes, do we allow them to differentiate without any guidance, particularly forms of guidance that help the registrant, or do we simply allow them to do that on their own? I think it's pretty clear that what we would like is to have the right kind of guidance that protects the interests and the control of the registrant (the registered name holder) in any sort of designation as legal or natural. I can't understand why anybody would not want that.

KEITH DRAZEK: Thanks, Milton. I note that Stephanie has responded in chat. So if folks could take a quick look at that. But I'm going to turn to—oh, Stephanie is in queue. Brian, I am going to come to you next, and then we'll come back to Stephanie.

BRIAN KING: Thanks, Keith. If you'd like to keep that conversation, I'm happy to wait.

KEITH DRAZEK: That's fine, Brian. Thanks. Stephanie, over to you.

STEPHANIE PERRIN: I just put in chat … I didn't say that any guidance would automatically be legal advice. I'm saying there's a thin line between providing guidance to registrars who are prepared to listen about the complexity of this situation. And I really like the guidance that Sarah has been working on. But I believe that there are many in this business who are just going to pick the easiest default, and the traditional, historical easiest default has been on disclosure.

So their advice to their registrants, their [formulae]—or what's the English for that; their forms—are going to push the registrant towards disclosure. Given the complexity of this no registrant is going to go out and hire a lawyer to answer a form letter or a form e-mail that asks them to tick a box. They're just going to tick a

box. They could be wrong. I care about whether they're wrong. Sue me. I think we should be protecting our registrants, and the default should be on protection, not disclosure.

KEITH DRAZEK: Thanks, Stephanie. Milton, I saw your hand go up, probably in response. Brian, if you don't mind, we'll go to Milton.

BRIAN KING: Carry on, please.

MILTON MUELLER: It's a very simple response. Stephanie is arguing for guidance. She just says it should be the right guidance. I think it's very confusing for her to say, "If there's guidance, it's going to be ignored or overwritten by registrars," when the same thing could happen if there's no guidance. Right? So I think there's no point to present this as a disagreement. There should be guidance. I think we're agreeing on that.

KEITH DRAZEK: Thanks, Milton. Thanks, Stephanie. Brian, I'll turn to you in a moment, but I should just note that I think that this question of guidance … Stephanie's fear and assumption is that registrars will default towards disclosure. I think there are other members and groups in this EPDP team who fear the opposite: that registrars will default towards redaction. I think the key question here is, is

there guidance that we can, as a team, provide to registrars who choose to differentiate how that could be accomplished?

I want to circle back to this after Brian speaks, but I think the key question in my mind around guidance is there's a distinction that's been acknowledged between existing registration base and new registrations. I think that's very helpful. I think the question is, if we look over the next two to three years, what guidance could we provide to registrars that would help them prepare for the day that may come where it becomes a requirement, whether it's because changes in law, or other developments? What can we be telling registrars at this point to consider in terms of their practices to best differentiate at their choice but also prepare for their future in the event it becomes a requirement? So if we could keep focused on that. But, again, we're also talking here today about whether there's a chance at having consensus around requirements for differentiation in terms of change in consensus policy. I want to make sure we're not losing sight of that. I think it's becoming more clear here that we likely will not have consensus on that question of policy changes creating a requirement for differentiation at this time. But as I've noted earlier, there are some variables and factors out there that we have not seem to come to a conclusion yet in terms of NIS2, SSAD[,] implementation, and approval of the policy recommendations. And there may be more.

Anyway, sorry I went on a bit there. Brian, you're next, and then we've got a queue building.

BRIAN KING: Thanks, Keith. I wanted to make a point that I think may just be helpful for the registrars to understand. I've seen and heard a couple times now that the registrars are saying that the data will be available upon request. I think that has the possibility of being perceived by the folks who are saying that the data is not available enough … That's not going to land well with the folks who are working so far to get increased access to the data and worked hard on SSAD but are disappointed and think that the SSAD that we built is not going to result in the type of awful access that's needed.

So I would just caution the registrars to understand how that point is going to be taken. We've done a lot of research and studies and have requested WHOIS data directly from a lot of registries and registrars. The data suggests that it's not available upon request and that there are plenty of folks that think that the SSAD is not going to work. An argument that the data is available or will just be available is probably not going to land very well with those folks.

So I just want to make sure that the registrars are aware of that. I don't think they want to be perceived as making a point that things are going to be okay when folks are telling you that they don't think so and the data backs that up. Thanks.

KEITH DRAZEK: Thanks very much, Brian. I've got a queue. I've got Alan Greenberg, Steve, Lauren, and Thomas. I'm going to draw a line after Thomas so we can get to the discussion of our logistics and document management. So, if folks could be brief, let's get to the queue. Alan Greenberg, you're next.

ALAN GREENBERG: Thank you very much. We've heard an awful lot today and many previous days about the difficulty of differentiation and how hard it's going to be to explain it to registrars/registrants to make sure they understand. We've seen Bird & Bird [acknowledge] the use of focus groups and things like that to try to make sure that the way we do it is going to be valid. We've also heard a lot about there being small registrars without a lot of expertise and without their own legal counsel.

When you put all of that together, I think we need to be providing guidance on how to do this, even if we had a consensus policy saying you must do it because, even if we put a consensus policy in that says you must do it, then the only way we're going to make sure it's done right is to also provide guidance. So regardless of whether we have a consensus policy, we need clear guidance that will make sure that the registrars are doing it properly when they do it or if they have to do it. That goes also towards, Keith, your thoughts of what may be coming down the pike in the future.

So quality guidance is essentially, regardless of whether there's a consensus policy. We're spending an awful lot of time talking about things and not getting to the work we actually could be doing within our deadline. Thank you.

KEITH DRAZEK: Thank you, Alan. Steve, you're next.

STEVE CROCKER: Thank you. I simply want to connect my prior remark about requiring a field for designating [it] and also enlarging the set of values that are possible in that field to include "unknown," in direct support of your comment, Keith, about laying the foundation for the evolution over time.

KEITH DRAZEK: Thanks, Steve. I wasn't sure if you were finished there.

STEVE CROCKER: Sorry about that. Yes, I was done.

KEITH DRAZEK: Okay, thanks. Thank you, Steve. I appreciate that. Look, I think your comment about the possibility of three fields is a clear acknowledgement that we've got an existing registration base that will be difficult challenging whatever word you want to use to be able to get to the full distinction at some point. So thank you, Steve.

Laureen, you're next.

LAUREEN KAPIN: Thanks, Keith. Just on Steve's last point—then I wanted to make a more general point—I think the issue of how to deal with the existing registrations is an important one. In that specific context, an unknown option might be very helpful. I don't think that would be helpful for new registrations. In fact, I think that actually might be counterproductive. So I wanted to flag that.

More generally, Keith, I thought you made a very useful observation about focusing on what would be helpful for us to plan for in terms of likely future landscapes, which of course in include possibilities of further regulation, NIS2, and other things that we think may be coming down the pike domestically and internationally.

I think that's a very helpful focus because you've correctly observed—and I think everyone on this working group has observed—that there's a strong difference of opinion about what should be mandatory and what could be guidance, but I also think there's a lot of common ground on what could be guidance. We should be focusing our efforts on that.

I would flag that, for the purposes of receiving public comments, there should be an opportunity for the stakeholder groups that believe the guidance we come up with … that that guidance should be mandatory and should be clearly identified so that we can get public comment on that issue. I would not want to see that left out or obscured in any way because this is a key point going both ways. The stakeholder groups that are for or against any mandatory requirements have strong views about that, and we should open that up for comment.

KEITH DRAZEK: Thanks very much, Laureen. I think your point about publishing an initial report for public comment is a very good one and a good reminder that we're following our ICANN processes here and that the work of the group will be subject to public comment. So I think that's a helpful reminder. And thanks for your other comments.

Alan, I'm going to turn to you next, and then we will move to the discussion of our logistics.

But I just want to note that there's some activity in chat around the question of new registrations versus existing registrations. I think the group, from very early stages, has acknowledged and been clear that there's a difference between new and existing registrations but that essentially the purpose or the work of this group is not focused only on new registration and that there's an acknowledgement that, if we're going to make a policy or provide guidance, either one of those could and should apply holistically to the database and the registrations. But I think that the distinction between the two is a critical one because it's a question of how you collect consent or a certification from a registration for new registrations, and it's an entirely different question about how you go back to address that with the historical or existing registration base. So I hope that's clear.

Alan, you're next. Go ahead.

ALAN WOODS: Thank you very much, Keith. And also thank you for actually covering one of the points I wanted to say. I think we need to be very clear when we start talking about the concept of mandatory guidance. A public comment does not guidance make, including to legal. If we're saying that we are creating a guidance that must be implemented, well, then that is a policy by any other name [that's not a sweet]. I think we need to be very clear on that. I'm not saying that to give [out] or to say that we can't go down that road, but I do think, if we are going to go down the road where we're

saying guidance is something that we can follow, then we are straying into that realm of what Stephanie is talking about, and that is the provision of legal advice [out to] registrants [and in a sense out to] registrars. We are saying, if you follow this guidance, you will not run afoul of the law. We need to be very clear that that is not something that we on our own should be stating. Yes, we can assess it, but there is that path by which we can actually go on this, and I think that's something we should work into this process and say … This is the registries' answer to Question 3 in the document earlier, and that is that is the Article 36 consultation. We've always talked about going to the European Data Protection Board. There is a method and means by which we can go to it. If we have a plan, we have a process, we have a procedure and means by doing it, we can present that to the European Data Protection Board and we can say, "Can we give this out as being guidance? If implemented properly, do you think this would pass muster?" They have legal power to be able to provide us with that information and that guidance. And I think that would be really helpful for all involved.

So instead of just applying guidance, which the public comment process has said, "Sure. That looks great," we would be able to say this is a guidance which the European Data Protection Board themselves have said, "This when applied properly will protect people from liability," about. I think that's also something that Bird & Bird were talking about. Yes, focus groups. But I think we should bring it to the focus group, and that is the European Data Protection Board. And then that should play in. As a group outside of the EPDP, we should be looking to an Article [40] because our industry needs to be clearer on how we deal with this. So we can

listen to the IPC, we can work with the GAC and the PSWG, and we can help ICANN bring this matter to a proper conclusion in line with the law. I think there is a path here, but we can't just say guidance is okay and must be mandatory. We need to have a path to make that statement as well. Thank you.

KEITH DRAZEK: Thanks, Alan. I'll just note—I typed this in chat—that we need to be careful about the terminology, but I think it's pretty clear that we either have requirements that are mandated by new gTLD policy through the PDP process or we have voluntary guidance or guidance for voluntary consideration. So it's either new requirements or guidance. It's not a question of mandatory guidance. I think that's conflating two completely separate terms.

With that, thank you all very much for the engagement on this today. I appreciate that we may not have gotten through as much of the substance in terms of the text that we would have looked to or that we will, but I think this was a helpful exercise. I hope you agree.

I'm going to stop now. I'm just going to note that, quickly, for the next meeting, next Tuesday, our homework is to work on proposed responses for the feasibility of unique contacts question. This is in the agenda here. The goal is to have input from the teams by close of business tomorrow in preparation for the meeting on Tuesday, which would give staff the opportunity and time to incorporate the input from the various groups and also provide your review and input on the remaining edits on the write-up document.

With that, I'm going to hand the floor to Caitlin and Berry for our discussion about the logistics and the documents. Again, apologies. We're running a little bit short here, but we want to hear what folks have to say. Caitlin, could I hand it over to you and to Berry?

CAITLIN TUBERGEN: Yes. Thank you, Keith. I just wanted to acknowledge that we appreciate some of the concern that we've heard that there's a lot of documents to be managed, that it gets confusing, and that version control is confusing.

I wanted to note that the spreadsheet that you see on the left is the—oh, it just disappeared. That is here we track all of the action items. The action items are highlighted in magenta towards the left of the spreadsheet. All of the current action items you'll see as open in that green column. The correct version of the document will be hyperlinked within that action item.

One thing that we discussed among the support team is that perhaps for versions that we're no longer using we can put a clear marker at the top, noting that this version is no longer—yeah, right at the top; that yellow banner—accepting comments anymore. The reason that we do that is, as many of you know, the Google Documents can get a better unwieldy. So we try to provide multiple iterations of those documents so that we can resolve comments that we've discussed and remove those from the documents so there's less clutter. We do, however, archive all of the versions for transparency. But we are constantly trying to iterate the documents so that you can see what is the most

current. If that's not a helpful way to proceed, we're open to hearing feedback.

I did want to note one other thing, and that is that, in the EPDP folder, under EPDP Phase 2A Google Drive, you'll see on the screen that these are the documents that are currently under discussion. Then there's an also an archived folder, which is where all of the archived versions appear that we're no longer accepting comments on. Part of the reason that we have to close out comments is so that staff can produce the next iteration and that we're not missing comments on a previous document that is inadvertently not included in the new version.

So what you'll see here is that table that includes all of the comments that are due Friday for the legal versus natural write-up and the response to the questions regarding feasibility. We have the latest iteration of that write-up just for reference, and we also have the table that we just discussed, where all the groups provided their response to those consensus policy questions.

So, if you're ever confused about which iteration, I would recommend going to two places. The authority is that spreadsheet that we update after every meeting. And we close our action items as they're closed. If you're working within a lot of Google Documents, I recommend going to the folder to see what where the most current versions are stored.

I know that's a lot, and there are a lot of documents. Again, we're in an endeavor to put the banners on the top so that you know when a document has been closed out. You can always obviously reach out to us directly if you need a link or you're missing the

document. They put a lot of work into this spreadsheet, and we do update it regularly so that you're up to date on where all the action items so that you don't have to go through all of your old e-mails to try to chase down action items.

With all that being said, I'll hand it back over to Keith to see if anyone has any suggestions or concerns with how we're managing the documents for this group. Thank you.

KEITH DRAZEK: Thanks very much, Caitlin, and thanks for all the work that you and Berry and Marika and staff have been doing to keep us organized. There are a lot of moving parts. Thanks for walking us through that.

Laureen, your hand. Go ahead.

LAUREEN KAPIN: First of all, I echo the thank you. I know it's a big job. In some real sense, it's a Sisyphean task. I think the banners are really helpful right on top in clear letters. I think that's good.

What I think would also be really helpful, since you illuminated these extra resources—frankly, some of which I wasn't aware of—it would be good if all the follow-up e-mails had just a section, perhaps at the end, saying, "As a reminder, here's our spreadsheet for action items." I will say candidly I find Excel spreadsheets hard to read and hard to work with, but I understand the utility of it. But it would be good to have that reference in each follow-up e-mail as well as the Google Drive, where all the active

and archived documents live, again, so I don't have to fuss around finding it and look to where my bookmarks are because, when I look to where my bookmarks are, I have all these prior versions and I don't know which is the current version.

The other logistical challenge is that sometimes people respond to things I've written in a document and I get a notice that someone has responded or made a comment and then I react to it and make an edit, only to find I've done it on the wrong document. It's not in the current document and it becomes very frustrating.

So I just think, to the extent we can be very clear on what the most recent document is and include references to where we can find the prior versions and the current action items in every e-mail, that would help a lot.

Then, to the extent where—this I use in my own work … Instead of creating new wholly new documents, especially if it's on Google Drive, maybe you add on to the old ones and put the new version on top. That way, if someone just wants to scroll down and they're not trying to find a whole bunch of other prior versions, they just know that it's living there. It's just all the way down at the end, and the most recent version is at the top. There may be logistical reasons why that won't work, so I rely on you to correct me. But that's just another idea.

I just want to make sure we're all not wasting a lot of time commenting on the wrong version or spending a lot of time being confused about what then right document in play is. So thanks for listening to my little monologue on this.

KEITH DRAZEK: Thanks, Laureen. No worries at all. Thank you for the input. I'm guessing—and from what I'm seeing briefly in chat—you've got some support as well. So, look, I think this feedback is great.

Thank you, Caitlin, for giving us the quick snapshot overview. We'll take this onboard. Leadership will work with staff to make sure that we're responding to the feedback or the input that we've received.

We are at the bottom of the hour, so I'm just going to pause and ask if there's any other business and just take an opportunity to remind folks to do the homework and be prepared for our next call on Tuesday. But anyway, last call for comments. Any other business?

Seeing none, thank you all very much for your input today. We'll go ahead and conclude today's call. Thanks, all.

[END OF TRANSCRIPT]