ICANN Transcription
GNSO Temp Spec gTLD RD EPDP – Phase 2A
Thursday, 27 May 2021 at 14:00 UTC
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TERRI AGNEW: Good morning, good afternoon and good evening. And welcome
                        to the EPDP P2A Team Call taking place on the 27th of May 2021
                        at 14:00 UTC. In the interest of time, there'll be no roll call.
                        Attendance will be taken by the Zoom room. If you're only on the
                        telephone, could you please identify yourselves now?

                        Hearing no one, we have listed apologies from James Bladel of
                        the RrSG; Brian Beckham, the co-chair; and Margie Milam of the
                        BC. They have formally assigned Owen Smigelski and Steve
                        DelBianco as their alternates for this meeting 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 your chat. Attendees will not have chat access,
                        only view to the chat.

                        Alternates not replacing a member are required to rename their
                        lines by adding three Z's to the beginning of your name, and at the

end [in parenthesis your affiliation "-Alternate" which means you are automatically pushed to the end of the queue. To rename in Zoom, hover over your name and click Rename.

Alternates are not allowed to engage in chat, apart from private chat, or use any other Zoom room functionalities such as raising hands, agreeing, or disagreeing.

As a reminder, the Alternate Assignment Form must be formalized by the way of the Google link. The link is available in all meeting invites towards the bottom.

Statements of Interest must be kept up to date. If anyone has any updates to share, please raise your hand or speak up now. Seeing or hearing no one, if you do need assistance, please e-mail the GNSO secretariat. All documentation and information can be found on the EPDP Wiki space.

Please remember to state your name before speaking. Recordings will be posted on the public Wiki space shortly after the end of the call. As a reminder, those who take part in ICANN multistakeholder process are to comply with the Expected Standards of Behavior.

With this, I'll turn it back over to our chair, Keith Drazek. Please begin.

KEITH DRAZEK: Thanks very much, Terri. Hi, everybody. Welcome to our EPDP phase 2A Meeting #25 of the 27th of May. So, the agenda is on the screen before us. It was circulated yesterday to the list, along with

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the covering e-mail that I included. I hope everybody has had a chance to review that carefully, as well as the attached documentation that staff was kind enough to pull together and to consolidate all of the input.

As you've noted, I'm sure, and as I noted in the e-mail yesterday, I have some pretty serious concerns about where we are as it relates to the "can't live with" designations in the current initial report and in the table and the documents. And so, I'm going to ask each group on today's call, as we get to agenda Item #3—and I'm saying this now to give you a heads up. As we get to agenda Item #3 and we start considering the remaining "cannot live with" items that were identified—and, as I noted in the e-mail, there were 77 items identified as "can't live with," 40 of which remain, I think, unaddressed by proposed text from staff—we need to have a frank conversation as a team about possible next steps and a path forward.

And so, I'm going to ask each group to come up with a minute or two, or to develop a minute or two of input with any constructive suggestion that you have, respectively, for a path forward on some of these. And you can talk generally about a path forward for the group in terms of dealing with these "cannot live with" items. You can speak specifically to your group's issue with "cannot live with" items, one or more. But if we could just try to keep any input that you have in a constructive way to try to find a path forward and a path out of this bit of a mess that we're in right now as it relates to the "can't live with" designations, I would appreciate that.

So, we'll come back to that in a minute. And there's also, under agenda Item #5, in the public comment forums, it asks the EPDP Team to provide suggestions for how best to solicit input, etc., avoid restatements of already known positions and/or information. That's essentially the same request, the same conversation I think we need to have about what next steps are, in terms of being able to get this initial report out for public comment.

I hope that, in the "can't live withs", folks will recalibrate their expectations and understanding. "Can't live withs", as I noted in my e-mail, are typically used to indicate where there's fundamental disagreement on items for a final report where there might be a risk to consensus or the need for a minority statement. And frankly, folks, we're not there right now. We are at the initial report phase and we're trying to develop proposed text and questions for community feedback and community input in a public comment period. So, I really hope that we can work towards resolving some of these "can't live withs"—recasting those with different language, perhaps, or turning something into a question that will generate feedback. Because I'm really struggling with the "can't live with" designations at this level, at this stage of the process as we're focusing on initial report language.

So, I'm going to stop there. The agenda is before us. I'm not going to take the time to go through it in great detail. I think the e-mail that I sent yesterday essentially established what we need to focus on. So, I will open the queue at this point if anybody would like to have any initial reaction.

Stephanie, I see your hand. Go right ahead. And Stephanie, if you're speaking, we can't hear you. You're on mute.

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STEPHANIE PERRIN: Sorry, Keith. That's an accidental hand, and [haven't] figured out how it went up.

KEITH DRAZEK: All right. Not a problem, Stephanie. Thanks. No problem. Feel free to get back in queue if you like. I have Volker, Alan, and Steve. Volker.

VOLKER GREIMANN: Yes. Thanks, Keith. And I appreciate your e-mail yesterday. It summarizes a lot of what I felt as well. A big problem that I see is that people have approached this group and this work with some unrealistic expectations of being able to achieve changes that were even beyond the scope of what we are set out to achieve and are now unhappy with the result that was, in a way, foreseeable for many.

That, in itself, is of course a problem, and I would urge people to manage their expectations going into the work like this. And just because they cannot achieve what they want, it does not mean that they should say that they cannot live with something that is not a change to what we've already agreed to.

Being constructive, other than asking people to change their minds and delve deeply into themselves, I think, is something that is problematic. We've spent a lot of time discussing things and, ultimately, a lot of these "can't live with"" items that I've seen are on what we've already had as basically settled language, basically

points where we were already in agreement or at least an acknowledgement that no progress would be able to make.

And instead of acknowledging that the status quo is what we're stuck with, stating that you can live with it is probably not the right way to approach this. Thank you.

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

ALAN GREENBERG: Thank you very much. A couple of things. First of all, I think part of the problem has been the timing. We were presented with a new document which we had never seen before with very little time. No time to consult with our communities, very little time to consult among ourselves. And the documents we got yesterday are more of the same. So, to some extent, yes, maybe if we had had time to talk, to digest, to consider we wouldn't have been quite as vocal with what we couldn't live with. But given the short time constraints and the fact that we have communities we couldn't even talk to …

In the case of At-Large, we schedule a meeting once a week, and the documents just didn't make that deadline for either of them. So, we're really stuck having to wing it quickly. So that, I believe, is certainly part of the problem.

From my own point of view, a number of the most significant issues were resolved with the staff edits yesterday or Wednesday, whenever. Yeah, yesterday. I guess that was just yesterday. There were there were things there. Not by malice, but in our view

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there was bias in how the things were presented, and that was just not acceptable. And the rest of them, I think, you've got to look at one by one. Some of them that were deemed to be not acceptable, maybe we can bend on. Others, you know …

I'll give an example of the item that I added, the web form one. That was discussed at the meeting you weren't at, and the walking orders that I had from Philippe is, "Write up something. Put some text in. If we can agree on it, at least, it will be there as a question that we can ask." And I'd be willing to accept that, but to be told that, "Sorry, it's not going to be there at all" that's just not acceptable. It is really a major issue for us.

So, I think we're probably not in as bad a shape after the edit as you imply, but those of us who essentially forced the issue with the GNSO Council and caused Phase 2A to exist went into it hoping and believing that we could get something out of this. And at this point, that's not where we are. And maybe that was unrealistic, as Volker said, but that is where we are.

And the "can't live with" designation is not that far away from where we believe we are right now because it was the same "can't live with" that got us to Phase 2A to begin with. Thank you.

KEITH DRAZEK: Thanks, Alan. And I'll acknowledge that timing is always a concern when we have PDT working groups. I don't think much of what we're reviewing was a surprise, and so I understand that the consolidated document was sent out fairly close to the work that needed to be done to review it. But look, I don't think a lot of this is

a surprise. And, frankly, this is, in the grand scheme of things, not a very complicated or complex draft initial report in the grand scheme of initial reports in GNSO PDP.

And thank you for focusing on the homework to develop some language around the web forms. I know we've talked about that quite extensively, and certainly I hope that, if we are indeed closer than perhaps it appeared from the 77 "can't live withs"—and maybe, the staff suggested amendments will get us much, much closer—that if we can turn things into questions, I think that is probably the best path forward that we have to get an initial report out, give the community the opportunity to provide input, and then to reconvene in a couple of months' time to be able to consider that and determine whether there's a path forward for the group.

But that's really where we are today. Essentially, are we able to deliver an initial report that has general consensus of the group to be to be able to take that next step? And that's really what I'm struggling with right now.

But, Alan, I do appreciate your comment that you think we may be closer than I had indicated in my e-mail yesterday. And I think that's good news.

ALAN GREENBERG: Keith.

KEITH DRAZEK: Yeah, go ahead.

ALAN GREENBERG: One more quick point. Making sure we have questions to ask is fine. In some cases, they're buried in footnotes. Now I don't know what form the questions we ask the community will be, but when the substance of a question is buried in a footnote, it's not going to be read and focused on. So, I think we're going to have to pay attention to just how we're conveying/talking to the people that we're looking for comments from. Thank you.

KEITH DRAZEK: Thanks, Alan. And thanks for that constructive suggestion and point. I do appreciate that. Steve, Volker, next. Go ahead.

STEVE DELBIANCO: Thanks, Keith. It's Steve DelBianco filling in for Margie Milam in the BC today. Mark Svancarek will cover some of the detailed concerns with BC, but I'm just going to use a few seconds to suggest that it's not just the timing that Alan talked about. It's not just the timing. It's more so the tone.

As we went through the report, the narrative put forth by CPH and NCSG is dismissive and minimizes legitimate concerns that were raised by BC, IPC, ALAC, and GAC. It was completely unnecessary and over the top, and had its predicted effect of inspiring us to reject that narrative and then develop a counter narrative with regard to legitimate concerns for access.

The path forward, Keith, is for CPH and NCSG to dial back the dismissive rhetoric in the narrative part. It isn't even necessary.

Those parties are going to get their way with this report. This is about optional guidance. It's not about promoting standards or imposing requirements.

In the ICANN model, when the status quo is the position that you favor, you have the opportunity to be magnanimous in resisting change. The BC has been on both sides of the status quo in the past. We find ourselves on the losing side of this one, and yet I don't ever recall the Commercial Stakeholder Group trying to tell a narrative that really brutally minimizes legitimate concerns raised by the other side in a report that is largely going the way that you want it to go.

So, Mark, I hope that you can pick up and give the detailed concerns, but I think that's a statement that says it's more about the tone than the timing. Thank you.

KEITH DRAZEK: Thanks, Steve. And I look forward to Mark SV's input in terms of the details. But, folks, let's try to focus on constructive suggestions moving forward. How do we get ourselves from where we are today to being able to produce an initial report next week?

Volker, you're next.

VOLKER GREIMANN: Yes. Thank you, Keith. I found it interesting to hear Alan and Steve raise basically very much of the same concerns that we had because when we read this report, we also felt that a lot of our talking points or concerns were relegated to footnotes. And a lot of

unproven assumptions had been in more of a spotlight position. Just to give an example here, there are entire paragraphs with conjecture related to how most registrations are legal persons. Totally unproven suggestion. There's the suggestion that legal person data will be super important to stop crime.

All of these have been accepted wholesale in the main text of this draft report, whereas our concerns that we've raised again and again—and also offered numbers and examples and factual details—were just hidden in some footnotes. So, I think this is some experience that both sides apparently feel because they feel that their arguments are not center stage. And now to see that IPC, BC, and ALAC have the same concerns, I think is interesting because we felt exact the opposite for us as well.

So, there's maybe a concern in how this is written. And redrafting or at least ensuring that arguments have equal time and that only proven suggestions and proven arguments are given center stage, and everything else is conditional on … Some parties have indicated that something-something may be the case that would be, I think, a good way of making the report more neutral and more palatable to a lot of parties. Thank you.

KEITH DRAZEK: Thanks, Volker. What you just described made me think about the phrase that we use about everyone being equally unhappy for various reasons. But in this particular case, it sounds like there are common concerns from different perspectives among the group.

I've got a few other folks in queue. I definitely want to hear from everybody that would like to provide some input here. But, again, please think in terms of how we can get from where we are now to fixing what we've got to a point where we can get public feedback.

Volker, I think that's an old hand. Laureen, you're next. Then Stephanie. Thank you.

LAUREEN KAPIN: Thanks. And I just want to share some perspective, especially in response to Volker's last comment about how this has spiraled into a somewhat negative dynamic which I still think, agreeing with Alan Greenberg's comment, that we are closer than we think. And I'm confident that we'll be able to get to yes with, as you say, Keith, people being equally unhappy.

But by way of example, and I think part of this is the time crunch, when the GAC reviewed additions to—and I think this was from the Registries' statement of their narrative of how things stood— and saw what was, I think, a neutral but bare bones description of the stakeholder groups that supported our views, we thought, "Well, if they are going to include this lengthy description, then we need to do the same so that it achieves an objective balance." And now I hear Volker bristling at our description.

And I just point this out to show the dynamics here that I think it's fair for everyone to be mindful of wanting to achieve a balanced and objective view in the report of the state of play and clear identifications of where we disagree in order to solicit feedback

from the public comments on where the stakeholder groups at large and the public at large who follows this might weigh in.

But I just reflect on this dynamic that if that if certain groups are going to put in things which then tilt the scales in other stakeholder groups' perspective, of course they're going to respond. I mean, that is perfectly predictable. So, I think it's perfectly fair to ask us all to forbear a little, but it would be unfair to not expect that every stakeholder group is going to want to have its say and put its perspective there.

That said, my bottom-line message is that, especially with staff's—and I'll say—Herculean work to get this all done in a very short amount of time, we are closer than anticipated. And it might be a great option if groups agreed to mutually disarm if there's particularly volatile language. That could be a path forward, so I offer that as my observations.

KEITH DRAZEK: Thanks very much, Laureen. And I will agree wholeheartedly in acknowledging the work of our staff colleagues, including over many weekends and likely over the coming weekend and a holiday observed by ICANN Org. They are doing Herculean work in a challenging circumstance. So, let's all keep that in mind as we try to work towards this and publication of an initial report.

And Laureen, I think you're right to acknowledge that. I guess my question is, is there a way for us to sort of boil down what we have into a more concise, constructive, and clear list of questions with the necessary and appropriate context? But like you said, to dial

down a bit, de-escalate, and to really focus on what we need to hear from the community.

And, look, I'll just say right now. I hope we get interesting, meaningful, constructive input and feedback from the community beyond just what we've talked about over the last five months and beyond what has been discussed previously in EPDP Phase 1 and Phase 2; that there's something new that we hear that will help us move to the center or find a compromised path forward. And so, that's our goal. Right?

LAUREEN KAPIN: And I …

KEITH DRAZEK: Laureen, go ahead.

LAUREEN KAPIN: Right. And I say yes to that question, Keith. But I will at least say right now that we may need another week just to digest this because when I look at the changes that staff has made … I'm just reflecting that now so that it's not a surprise. And that may be rejected and you may think that's not feasible or not constructive, but it's a lot of information to have to digest.

KEITH DRAZEK: Yeah. Thanks, Laureen. And to that point, as I noted in my e-mail yesterday, I feel like, as chair, I have the flexibility to push the publication date by a week because we are in, I would hope, the

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final stages of reaching a consensus position for the initial report. I feel like I've got the latitude to do that.

But beyond a week, I really feel like, under PDP 3.0 and our charter, we would have to go back for a project change request to the GNSO Council. And I have real serious concerns about whether that would be granted, number one. And I don't think that that's necessarily helpful. I think this is the typical crunch time that every initial report or final report working group has to deal with. But thanks, Laureen. I appreciate that.

If I feel like, at the end of today's call, we are much, much closer than where we were yesterday, then certainly I think an extra week would be something we could make happen. But in order to do that, we've got to make some progress today. So, let me stop talking.

Stephanie, you're next. Then Hadia.

STEPHANIE PERRIN: Thanks very much. If I may just note that I find this whole discussion of footnotes quite amusing because in previous discussions, I had to fight to get data protection mentioned in footnotes. So, here we go.

I think that we should modulate our expectations for this report. I think that, even though we are really arguing about some rather fine points and, in that respect, are closer than we're behaving as if we are—if you follow that—nevertheless, there are some hard lines that have been drawn.

And I think it's perfectly fair in an initial report to say, "We worked on this for X months. There are still very firmly held positions." And then you structure the report around, "On the one hand, this." And then the other side says, "On the other hand, that," and avoiding the use of footnotes by dragging those things into the text so that it's clear to the reader … A hell of a lot of people who don't read footnotes. It's clear to the reader that there are some real questions.

Now, if we can develop a set of questions to eliminate those tensions where they still remain, because there are not 77 or whatever the number is, then that would be very helpful in a report going to the public. But that's more than a weekend's work, and I would definitely think we might even need another meeting to assist staff to vet those—in particular, the questions.

So, that's just my comment. Yes, we can still put out an initial report, but it's going to be a slightly different initial report. I don't think we should pretend that we have consensus when we don't. Thanks.

KEITH DRAZEK: Thanks, Stephanie. Let me just add. I think that's a good and constructive suggestion. I agree. For an initial report, the key questions to be posed are really what matters. I'll note that … And, look, what we need for an initial report is consensus that we're good to publish the questions and to publish a status update for the community. It's not to say that we agree on what the final report may say someday. Right?

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And so, I think if we can recalibrate and focus on this question of, what are the key questions? And if the initial report needs to include a description of the different views or the different perspectives, then good. But I think the key focus for our initial report and where we should be able to come to agreement is on the questions where there are differences of opinion and where we need help of creative minds to say, "Here's a possible path forward. Here's something you may not have considered, or maybe you need to redouble your efforts on a particular area." And so, maybe somebody offers some new information that we haven't considered.

So, thanks, Stephanie. I appreciate that constructive suggestion. And again, I am not opposed to, if we are making progress and there's demonstrated goodwill to bridge our gaps and to resolve these "can't live withs", then perhaps we schedule a follow up meeting on Tuesday.

But, Hadia, let me turn to you. Thanks.

HADIA ELMINIAWI: Thank you, Keith. So, first I do not agree that we may not be able to reach consensus in publishing an initial report. So, in taking a look at some of the really contentious parts, we find, for example, that the introduction is one of these contentious parts which we thought was totally unbalanced.

However, the introduction is just an introduction, but the main part which leads to actual outcomes and benefits to the Internet community are the recommendations. And in that regard, I think

that consensus is possible. So, focusing. I think that what we need to do is really focus on the real outcomes of this report and the concrete recommendations through which this report can impact the issues.

And again, in that regard I think consensus is possible. So, as Laureen and others said, maybe if we take maybe a week more, we could be able to work out those recommendations in a way that is satisfactory to both parties. Thank you.

KEITH DRAZEK: Thank you, Hadia. And I believe that the intro that you were referring to, I think, has been updated, but I think your points are well taken.

Would anybody else like to get in get in queue? Jan, thank you very much.

JAN JANSSEN: Thank you, Keith. And let me really thank staff for the great efforts that they have put into collecting and to mapping all of the new comments. It's a fantastic job.

Although, I think some of the concerns and some of the changes that they have implemented do not always come completely address what some would like to see changed. And like Laureen said and it was echoed by Hadia that more time may be needed to really digest this. And I have a suggestion to make the work that was done by staff even better.

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When you have the initial report input form with the color coding, which really is helpful, but the line numbers in the topic refer to the report as it was. It would be great and very helpful, I think, if we would have there also the line numbers to report as it is now in the in the "track changes" version. I think that would facilitate our lives in digesting all of the changes that were made. I don't know whether that's feasible, but it would help us, I think.

KEITH DRAZEK: Thank you very much, Jan. I will turn to staff in a moment to see if they have anything that they'd like to add, both in terms of the discussion that we've had so far as well as any tactical or logistics in terms of next steps.

But let me turn to Christian from the ISPs, and then I think … Still waiting to hear from the registries, and I don't know if I've lost track of the list. If anybody else hasn't spoken as a group, please step up. Thanks.

Christian.

CHRISTIAN DAWSON: Thank you, Keith. I appreciate it. All the groups have been asked to speak, but I wanted to say that we were very pleased when we saw your e-mail yesterday, Keith, because I would say that when we first reviewed the report, we didn't see any big surprises in it. There are certainly things that we would like to wordsmith in there, but we did not put any "can't live withs" in there.

I feel as though this … I was not in the first round in the second round, and in jumping into it having studied the scope and understanding what I believe we were supposed to be trying to attack here, I realized that we spent a lot of time talking about things that I thought were outside the scope. And I thought Alan Greenberg said something really interesting earlier when he talked about how the people that were forcing 2A to happen were really hoping that they could get some certain things done.

And I think what we may be seeing here is a process where people are realizing that the things that I sort of assume are out of scope really aren't being focused on in this report. And there's almost a period of mourning that I think, as a result of some of the … When I read some of the "can't live withs", it almost as a processing of, "I can't believe that we're not getting these things that we hoped that we would finally get in this 2A."

I think that we need some time. The time that you're suggesting for people to come to terms with that and to go back and reflect upon the scope could be very useful. I will say that I think the staff has done a remarkable job, and I did not see the tone issues that Steve DelBianco mentioned before. That may just be my perspective.

But ultimately, I think a very good job has been done to date. And I'm hopeful, based on the conversations that have been had, that maybe we are closer together than we thought we were when we reflected upon the "can't live withs" at first. So, hopefully that's helpful.

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KEITH DRAZEK: Thanks very much, Christian. Appreciate the input. Would anybody from the registries like to get in queue? Anybody else that hasn't spoken yet as a group? Tara from SSAC. Thanks, Tara.

TARA WHALEN: Sure. Thanks, Keith. This is Tara Whalen from SSAC. Just, again, repeating all of our support for the staff who did all of that work and for Keith for pulling this all together. SSAC definitely wants to contribute to give good ideas for work in the future, but are mostly concerned about getting us back on track and getting us in a good position. So, throwing our weight towards trying to find effective consensus. So, thanks again.

KEITH DRAZEK: Great. Thanks, Tara. All right, I'm going to … Oh, Alan, thank you very much. I was about to start calling out names, so thank you so much.

ALAN WOODS: Not at all, Keith. Thank you. To be honest, we've had to think long and hard based on some of the statements, literally, that have been just made there. So, I think number one, obviously, I do want to start off by saying thank you so much to the staff. I know what has been done is a Herculean effort, and it is not easy taking everything into account that has been [brought], especially the short notice. So, I really do appreciate the clarity with which the comments were received and what we're looking at the moment.

With that being said, I think … We said that it would appear that some emotion would have come through in the Registries Stakeholder Group's submissions. And I think that is probably an odd statement for us to listen to and to hear, based on the fact that this should not have come as so much of a surprise to most people considering that we have made interventions over the past several meetings.

And in those interventions, we have said much along the lines of what Cristian was saying there. That this is not a matter of us not agreeing with proposals, not agreeing with this or that or another. It is us stating that we were given a specific task to go by, and that's specific task has been on what overstepped in the recommendations. And that's pretty much what we've said in our statements.

We believe that what we are working towards in Recommendation 1 and Recommendation 2 was just simply not in scope of what we are asked by the GNSO. That is not to say that we don't believe that there could be things done, but it's just not in the scope of what we're being asked to do.

And, again, the EPDP specifically has become some form of a workhorse where we think that we can just continuously bring things and place things on the table. And we need to make sure that … You know, there are a lot of eyes on the MSM process at the moment, and the MSM process is there to specifically ensure that we are doing things in line with the bylaws, in line with the GNSO PDP development processes, etc.

And we cannot be the ones that break that process. We must stick to that process. And that is what we're seeing in our suggestions from the Registries Stakeholder Group. Saying, yes, there are a lot of questions and we understand there's a lot of people who still don't feel that they have gotten what they think they believe they need, but what we're saying is that we must stay within that process.

When it comes to do the issue of the guidance, again, we are very happy to have guidance. Guidance is something that we, as contracted parties, would love to have. But the problem is that if we do not agree with the guidance that is there and we do not believe that is guidance that will help us actually do these things that we all should be working towards, then that is not good guidance.

Steve did mention that the BC never wanted this to be mandatory, but the BC is just one voice in this. And again, I think we just need to probably point out, in footnote 13 that, again, it stated in the documents that three of the members of this particular team have advocated that these should be mandatory requirements. And when you think about, from the point of view of the contracting parties where we're getting a mixed message—that it is guidance, it is not guidance, it should be mandatory, it should not be mandatory—and where we fundamentally believe that some of the guidance or a lot of the guidance is not actually going to help contracted parties achieve what is being set out, then you understand where we're coming from.

So, I apologize if it came across as being somewhat overly emotive, but as I said, it should not really have come as a surprise

considering we have pushed back and we have given this information a lot of times during the course of the meeting.

So, again, thank you to staff for taking it on board. We believe that, as Keith just put it about how the initial report should go, we should be very clear in stating that we are looking for input to try and maybe guide us a little bit more with a view to the final report. And in that instance, I think we can absolutely accept that. So, look, I will say no more on that.

Again, we didn't intend for it to come across as an emotive, but at the same time, I think what we did say was very important. So, thank you.

KEITH DRAZEK: Thanks, Alan. And thanks, everybody, for your input. I think we covered everybody. If we missed someone, please speak up. Thanks to everybody for the frank conversation. I put everybody on the spot for some initial reactions, and I think it was helpful. And I think what I'm hearing is that there's a general view that we're closer than it appears and that there's a recognition that we can do some work over the course of the next week perhaps to be able to focus on the key questions and the key areas where we're seeking input from the community through a public comment period, and that we need to clearly resolve some of these "can't live with" designations.

I've heard that the staff work has been effective and constructive and helping to bridge much of it, but not all of it. And we need folks to go back to those "can't live with" designations because,

folks, that's really … I mean, the staff and the leadership team, in that order … As staff, they're forced to try to assess all of the input and to bring it to a question of how close are we? How far are we? And those "can't live with" designations are significant and mean something when the staff is doing its analysis.

So, we need to take another real hard look at that and to recast that to better understand where there are fundamental differences and where there are real challenges. But I think the way forward is for all of the groups to review the responses to the "can't live with" items. Right?

Please review my e-mail from yesterday again and the latest version of the initial report with the redlines. And then, essentially, by the end of this week, identify what must be added in the form of questions or clarification to ensure that we get meaningful input during the public comment period.

And so, if we're going to look ahead to a week's extension and have one or possibly two additional calls next week with a goal of wrapping this up by the end of next week, we've got to have everybody's commitment that that's the path that we're on and that we're all going to roll up our sleeves and do the hard work at this challenging moment.

And I'm interested. I want to hear from staff as well, so I'm going to turn shortly here to our staff colleagues. But, Stephanie, I saw your hand as well. Go ahead. And, Stephanie, you're probably still muted.

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STEPHANIE PERRIN: Oh, sorry. I thought you were asking staff first. My apologies. I just wanted to respond to Steve DelBianco's comment that when we're debating this, we can be forthright, but in a report going to the public, we should not trash each other's arguments. I think that we can be professional and we can be factual and we can ask questions about any lack of evidence. And we need to do that.

I would caution us against trying to come out with a feel-good report that disguises the distance between the positions because that doesn't do anyone any favors. It doesn't lead to good policy, whether you're talking about government seeking input or ICANN seeking input. And we should be clear about what the issues are.

So, I'm all for clarity and I'm all for detail, but let's not try to disguise the differences in views. Thank you.

KEITH DRAZEK: Thanks very much, Stephanie. And I'm going to turn to Caitlin next for anything that the staff would like to provide as far as their thinking in terms of next steps, in terms of moving this forward. And then we probably do need to turn to some of the substantive discussion as well.

So, Caitlin, over to you.

CAITLIN TUBERGEN: Thank you, Keith. We agree with everything that you noted, Keith, in terms of what the group should be focusing on. So, specifically if everyone can please review the table in detail, focusing on, of

course, the "cannot live with" items and see how to move forward on those.

What we propose to do is that we currently have a table for groups to continue including minor edits or typographical edits by Friday. And so, we will add another table to that document so that groups can go ahead and populate additional questions or clarifications that they think would help bring some of these "cannot live with" items to a close and focusing on questions we can include for the public comment or for additional feedback from the public comment period.

I think what we'll do is ask for that by Friday so that we can produce the next iteration of the initial report by Monday and have the group review any open items next week on Tuesday during the original time slot, and possibly have a placeholder on Thursday to finalize anything prior to publication.

In terms of adding additional questions and clarifications, we would ask that the group use the updated initial report that Keith circulated yesterday with his e-mail and reference those line numbers so that everyone's consistently referring to the same document.

And I would note, in response to Jan's earlier request, it would be easiest to focus on the redline items in the updated initial report because it would be a bit of work to reconcile all of the numbers between both reports. So, if you could just look at the updated initial report with the redlines and see if there's anything you disagree with or that warrants further questions/ clarifications, and

reference the updated line numbers in the table. I hope that makes sense. Happy to take questions.

KEITH DRAZEK: Thank you very much, Caitlin. If anyone has clarifying questions for staff, this is a great opportunity. And then we'll move to some substance.

I see a hand from Hadia. Go ahead.

HADIA ELMINIAWI: Thank you, Keith. And that was in relation to the initial report and the redlines or the red parts. So, it's my understanding that the red parts are the new contentious parts. And so, is this true?

CAITLIN TUBERGEN: Keith, I can respond to that.

KEITH DRAZEK: Thanks very much, Caitlin and Hadia. Go ahead.

CAITLIN TUBERGEN: Thank you, Hadia. So, the table that Keith distributed with his e-mail yesterday color codes items. And you'll note that in some of the items, staff has attempted to propose compromised language or additional language based on suggestions.

So, some of the suggestions were non-controversial. Sometimes the changes were not applied. Sometimes they were applied in

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modified form. But no matter how the change was applied, if you refer to this table and then refer to the redlines in the initial report, you'll see what staff actually changed as a result of this table.

So, rather than going back through the table and referencing all of the line numbers and changing them, it would be best to see if there's any concerns or additional clarifications that are needed in reference to the redlines that staff has applied to the report.

HADIA ELMINIAWI: So, initially the red parts are new parts which I not necessarily contentious, but they're just new parts.

CAITLIN TUBERGEN: That's correct. It's edits that staff applied as a result of the feedback we received.

HADIA ELMINIAWI: Okay. Thank you.

KEITH DRAZEK: Thanks very much, Hadia, for the question—and Caitlin. So, I don't see any other hands. I think we should move on at this point. Caitlin, thanks very much for giving that summary from a staff perspective. Don't go far because I'm going to turn to you next as we get to #4 on our agenda, which is to consider the items flagged for further discussion and resolution which we sort of coined the "blue items" and in the color coding.

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And we've got the questions that are actually on the screen here before us. I want us to focus primarily on A, B, and C. We had D, E, and F under #4 on the agenda which came in after the deadline. So, let's focus on A, B, and C first and then take it from there.

So, Caitlin, I'm going to turn it back over to you to help run through the detail and the substance here. Thank you.

CAITLIN TUBERGEN: Thank you, Keith. So, the first item that staff had flagged for further discussion within the group was a comment from SSAC. And Berry has highlighted the text on the left-hand document in the previous iteration of the report. And the concern from SSAC is noting that we need to ensure that the data element can be extensible. So, in the next column they propose new text. "This data element should be defined in an extensible way. This field must support enumerated values of 'legal, natural, and unknown' but should be able to expand in the future to accommodate additional data."

So, we flagged this for the EPDP Team to discuss specifically, is this necessary or is "per definition" extensible? If this language is to be added, it may need to specify who or how these extensions are made.

KEITH DRAZEK: Thank you, Caitlin. Would anybody like to get in queue?

CAITLIN TUBERGEN: I'm sorry. We're scrolling to the updated report, the line numbers 132 to 139.

KEITH DRAZEK: Okay. Sorry, Caitlin. And I just wanted to note while we're scrolling. I just want to remind folks, as we consider this just as we were earlier, please think about what we need to do to get this to a meaningful state for the initial report and public comment feedback. Okay. So, again, try to, everybody, be constructive and let's focus on what are the key questions that we need to ask. Thanks.

And so, Caitlin, back to you. And then I see a hand from Marc Anderson.

CAITLIN TUBERGEN: Thanks, Keith. I just was noting that Berry is now highlighting lines 132 to 139. This is what SSAC referenced in its comment about the new data element. And the proposed new text is what they are proposing should go there. If any as SSAC reps want to explain anything that I missed, I'm happy to turn it over to an SSAC rep since this was their concern.

KEITH DRAZEK: Sounds good, Caitlin. Thanks. I saw a hand go up from Tara. Tara, go ahead and respond or provide some additional context. And then we'll turn to Marc. Thanks.

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TARA WHALEN: Thanks, Keith. Really, just clarifying that this is a field meant to talk about registrant type. In this case, we're focusing on legal, natural, or unspecified. We just wanted to ensure that if there were some value in having the ability to perhaps further clarify as this involves that, we haven't restricted ourselves unduly. This is something we were certainly willing to be flexible about, but it was more a suggestion about giving us room in the future so that we don't constrain ourselves unnecessarily.

KEITH DRAZEK: Great. Thanks very much, Tara. Marc, over to you.

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

KEITH DRAZEK: Yep, sure can. Go ahead.

MARC ANDERSON: Great. So, on this point, I hope everybody at this point understands that registries don't support this as a field in the public RDDS, but are supportive of this being a standardized data element for registrars that do choose to collect this data.

So, with that caveat, I do want to say that I'm concerned with the fields that we've chosen to try and standardize on legal, natural, and unknown. This seems to contradict our own advice which says that this alone is not dispositive information. It doesn't take into account whether the registration data contains personally

identifiable information or not. We could indicate that it is legal, but that does not … It is the registration of a legal entity, but that does not tell the entire story.

So, if we are agreeing on standardized text for a field to be used for differentiating between legal and natural persons, I'm concerned that legal, natural, and unknown are not the right fields. And so, from that perspective, I think it's wise of SSAC some flexibility here. I think we certainly need some flexibility, but I think we're going into this with these three fields perhaps not being the right fields that we should be standardizing on in the first place.

KEITH DRAZEK: Thanks very much, Marc. Alan, you're next. Go ahead.

ALAN GREENBERG: Thank you very much. Two quick points. Marc led off with, "The registries don't agree that this should be in the public RDDS." That's not the question that is on the table at this point. It is in the RDDS, period. One of the sub-questions later on is, should it be in the public fields or should it be redacted or should only be sent to the SSAC—not the SSAC, sorry—SSAD. And the initial report says, "We will ask a question this." So, let's stop repeating arguments which are not relevant to this discussion. That's number one.

Number two. I thought when this was first introduced in the staff version a week or two ago that we said "unknown" was not the right word because then it's a question of who doesn't know. Is it that the registry doesn't know? Is it that the subject doesn't know?

I thought we reverted to "unspecified" or something like that. Thank you.

KEITH DRAZEK: Thanks, Alan. I see a hand from Mark SV. Go ahead.

MARK SVANCAREK: Thanks. Question for Marc Anderson. Well, maybe this is a statement. We'll see if it's a question. I think what Marc is saying is that we require the data element to be extensible. So, he's providing an example of an extensibility that is required beyond what we've already proposed in the document. It could be legal but contains personal data. It could be a further extension of this enumerated list of values in the field.

So, I don't think that what he's saying contradicts the suggestion by SSAC. And then I do agree with what Alan said, too, that "unknown" is not as good as "unspecified" or some other thing. But that's separate from this suggestion from a SSAC. Thanks.

KEITH DRAZEK: Thanks, Mark. And I will turn back here briefly to the registries, Mark, if you want to respond. I'm just wondering if, in the interest of moving this forward, whether the registries could take an action or a homework item to come up with a question that we might consider for inclusion in the initial report that would generate input on this question of which speed which fields to standardize on.

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I agree. I think we're not talking about "unknown" anymore. I think we had moved to a discussion about "not specified" or "unspecified" or something like that. So, I think that's generally where we are right now rather than using the term "unknown". I hope that's helpful.

I see a hand from Hadia, and then I'll turn back to Marc in the Registries for the homework assignment response. Hadia.

HADIA ELMINIAWI: Thank you. So, I thought Marc could go first. However, I don't see where the differences between different parties in relation to this part is. So, what I hear Mark saying is exactly what the SSAC are saying as well, and is what we agreed to, as well.

As for what exactly the names are now—legal/natural/unspecified—I guess we also kind of agree here. So, I don't see us saying different things in relation to this part. Thank you.

KEITH DRAZEK: Okay, thanks. All right. Back to Marc Anderson of the Registries. Are you all okay taking an action to formulate a question on this one about the definition of the fields? Marc, if you're speaking, I see you're off mute but we can't hear you. I'll give you one more moment here to try that again.

MARC ANDERSON: Sorry, Keith. Can you hear me?

KEITH DRAZEK: Yep. Now we can.

MARC ANDERSON: I guess I'm not sure exactly what you're asking and what your suggestion for a homework assignment is on this.

KEITH DRAZEK: Okay. I'll try to be more clear. I think the question is around the fields to be standardized. And there's obviously some discussion going on right now, and I think we need to come to some agreed text about what question we might pose in the initial report that will help generate input to help inform the further discussions on that.

So, I don't know if that's helpful or not, but I think if the recommendation as it exists today in the text doesn't have the right fields, how do we get input from the community on whether those fields are the right fields or whether we need to consider something else? I hope that helps clarify.

And maybe it's not only a registry issue. Maybe there needs to be some joint work here offline. But, look, I think this is something that we need folks to be able to have conversations outside the plenary and to be able to come back and to propose some new language.

So, I'll go back to the queue, but I'm still asking the registries to take that action to help coordinate. Alan, Hadia, then Laureen.

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ALAN GREENBERG: Thank you. I'm certainly not objecting to being extensible, and I'm not objecting to coming up with potential values. I will note, however, that we were quite adamant that this field be added to the RDDS—not necessarily the public RDDS, but the RDDS—for a reason because we believe the distinction between legal/natural is embodied in all privacy legislation—or most privacy legislation—and it is a critical thing to have a field for, should we ever figure out how to use it properly.

If we introduce too many variants and too many possible outcomes, the field will lose its value. And I for one might be in a position to object to it if the values were no longer giving it the same utility that it had when we asked for it to be added. So, just a note. Thank you.

KEITH DRAZEK: Thanks, Alan. I have Hadia and Laureen, and then we need to move on. Oh, sorry. And Stephanie. Sorry.

HADIA ELMINIAWI: Thank you, Keith. So, I'm confused, really, because I don't understand what the homework of the Registries should be. And why do we need to have a question in this regard? We are all saying the same thing, and we are, I think, agreeing to, for now, having "legal, natural, and unspecified". So, I'm not sure what the Registries need to do here. Thank you.

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KEITH DRAZEK: Thanks, Hadia. I think people are reacting the comment that Marc Anderson made that perhaps "legal" and "natural" and "not specified" aren't the right fields, or might not be the right fields. So, I think the question is, if those aren't the right fields, what should they be? What could they be in? And what should we be asking in the public comment period? That's my initial reaction.

Laureen and Stephanie. Then we need to move on.

LAUREEN KAPIN: Thanks. And I'll keep this short. I'm agreeing with Hadia. And to me, this is a question. I'm also a little confused by Marc's intervention. For me, this is a question of sorting. This is an initial sorting, and that's why the field is necessary to identify whether it's legal, natural, or unspecified. I don't disagree with Alan's point that then there needs to be further analysis because we know that the issue of whether personal information is contained within the legal entities record may be relevant. But that's a separate …

To me, anyway, analytically, it's an entirely separate issue and I don't think it actually relates to this field at all. It relates to the guidance. And it's already in the guidance. So, perhaps the registries want to reconsider that position because I think the concern is already reflected in our recommendations.

But as for the field, legal/natural/unspecified, I think everyone is on board with. And for the record, I put it in the chat that the GAC doesn't have an opposition to the SSAC's suggestion here. Thanks.

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KEITH DRAZEK: Thank you very much, Laureen. I think, in this particular case, we have proposal for "legal, natural, and not specified". As Volker has noted in the chat and I think maybe what Mark was referring to—without putting words in their mouths—is that we'd had previous discussions as a plenary, as a group, about whether it was a question of—is "personal data present" or not versus a flag of legal vs. natural? And maybe we need flags for all of that. Right? But I think that's the genesis of some of this question.

So with that, Stephanie. And then we need to move on. Thanks.

STEPHANIE PERRIN: Thanks. I was just raising my hand because Alan Greenberg said that all privacy law makes the distinction. That's actually not true. It is never too late to bring in a data protection expert, someone like Graham Greenleaf who publishes the annual report on data protection law which makes very interesting notes on how they have dealt with these fundamental issues.

And as I've said umpteen times, it depends on how you deal with small business, sole entrepreneurs, etc., which makes the distinction so difficult in my mind. We've already made a concession as NCSG in even permitting this "legal/natural/unspecified". But let's not pretend that it is a good compromise. I much prefer Volker's "personal information present" because that covers what is the real distinction. The whole idea that we can manage personal information by asking people to identify whether they're legal or natural just misses the whole point. Thank you.

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KEITH DRAZEK: Thanks, Stephanie. Alan, I saw your hand up and I saw you noted in chat that you had changed some of that text or that language. So, go ahead, Alan.

ALAN GREENBERG: Yeah. Thank you. I put my hand up for a different reason. I did retract my ["all"]. Nevertheless, you said let's move on, but I'm not sure where we're moving on to. I heard Tara say that this is not a live or die issue—I think I heard her say that—for a SSAC. We've determined at this point that the three values we have seem to be enough. And, as you said, maybe we need other flags. So, I'm just not sure what we're moving on to and how it's going to be resolved. Thank you.

KEITH DRAZEK: Thanks, Alan. It is a good question, and I think … Look, I think the proposal before us is that, at a minimum, "legal, natural, and not specified". We've had quite a bit of discussion about that, and I think that is the proposal. And I think the question is, is there a further clarifying question or questions that we should include in the initial report to generate public feedback on this particular question? So, I think that's what we're trying to achieve. Is the language clear enough? Are there concerns or questions or differences that we need to call out in the initial report at this point?

Let me, at this point, hand it back to Caitlin to help get us back on track and help me make sure that I'm not missing anything here in terms of next steps.

CAITLIN TUBERGEN: Thanks, Keith. I think you covered that well. So, if that's okay, can we move on to the next issue?

KEITH DRAZEK: Yeah. I think, in the interest of time, Caitlin, we should. Go ahead, thanks.

CAITLIN TUBERGEN: Okay. Thanks, Keith. So, quickly on the next two issues, I just wanted to note what they were. IPC had noted an objection to a footnote which Berry is highlighting right now. And this was a suggested edition by GAC several iterations ago, so we had included it here. Rather than take the group's time to discuss, our proposal would be to allow IPC and GAC to discuss the addition of this footnote and see if any updates need to be made. Unless anyone has any objections to that, we can move on to the next issue.

LAUREEN KAPIN: That's fine. And we're already beginning discussions on this, and I'm confident we'll be able to resolve it.

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CAITLIN TUBERGEN: Great. Thank you, Laureen. So, the next blue issue was an objection by IPC, BC, ALAC, and GAC. Berry's highlighting the text that was objected to, which is Item D in the legal vs. natural guidance. I'll note that this text was copied and pasted, I believe, from the registrar table that was submitted to the group early in the deliberations.

And we had asked, when comparing the GAC proposal to the registrar proposal, if the Registrars could review the proposal—or the combined guidance—and see what was missing rather than appending the whole table unless it was necessary to append the whole table. And Registrars came back with this text saying, "It's important to include these GDPR principles," which is why they're included here." And our proposal here would be for GAC and the Registrar Stakeholder Group members to review this section and factor in the noted concerns that were included in this blue item.

Keith, I'll hand it back to you because I see Laureen has her hand raised.

KEITH DRAZEK: Okay. Thanks very much, Caitlin. Laureen, go ahead.

LAUREEN KAPIN: Thanks. The GAC had actually made a text proposal—that I'm hoping would resolve this—in the last iteration for comments. And I can put it in the chat box for references as soon as I'm done talking. But I think, essentially, at a high level we have no opposition to referencing the fact that the GDPR should be

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followed. What we're less comfortable with is paraphrasing the GDPR or taking certain principles but not others.

So, it's the specificity in the fact that this is akin to legal advice that is a concern for us. So, I had proposed a rewrite which essentially says, "Make sure you look at the GDPR for guidance," with which I'm hoping would be acceptable.

KEITH DRAZEK: Okay. Thanks very much, Laureen. And thanks for the constructive input. And I think at some point—I see Sarah has her hand up—I was just going to suggest that perhaps the GAC colleagues and the Registrar colleagues could get together and figure out some wordsmithing here.

But let's turn to Sarah. Go ahead.

SARAH WYLD: Thank you. Hi. I guess I'm very curious to see Laureen's proposed text and way to modify this. I'm not in favor of striking the Section D, obviously. I do think that it's important to really convey these GDPR principles. And this was the way of hopefully incorporating the guidance that the Registrar Team has been trying to provide all along. Right?

So, I'm certainly sympathetic to not wanting to provide misleading explanations of things. Of course, we would never want to do that. I understand that we're not able to provide legal advice, but I think removing this section entirely is throwing the baby out with the bathwater. Thank you.

KEITH DRAZEK: Thanks, Sarah. Laureen, if you'd like to respond, feel free to. But I'm going to encourage maybe the two of you to catch up after the call, or at least offline, to try to move this one forward; maybe come together with some agreed to text that we could incorporate.

LAUREEN KAPIN: Sure. And, Sarah, just to be clear, we in no way think this is misleading. I didn't say that and I don't think that's the case. So, I'm sure we can get together. And I also want to make sure that it includes Melina, who I know has some scheduling challenges, as she has a lot of expertise in this area, also. So, yes. Let's get together and figure out a path forward.

KEITH DRAZEK: Great. Thanks so much, Laureen. And thanks, Sarah. So, I don't see any other hands in queue at this point. Caitlin, I'll hand it back to you for moving on to the next item.

CAITLIN TUBERGEN: Thank you, Keith. With respect to the previous items with GAC and IPC working together, and registrars and GAC working together, I would just like to request that if an agreement is reached, if you could forward that on to the whole list for reaction so that others have a chance to provide their feedback as well. Thank you.

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So, on the next three issues. These were—just to categorize them generally—recommendations that came in after the deadline. So, we—support staff—bracketed the language just so that everyone could react to them. We didn't want to include them in unbracketed of language just because we know that, with respect to all of these, the group hadn't had a chance to discuss in detail or agree to it. So, we wanted to note in some way that this wasn't agreed-to text, but also allow the group to react to it and possibly put it out for public comment.

So, in terms of the first new recommendation, this was a draft recommendation that was submitted by the GAC in relation to the legal vs. natural guidance. "If the registrants identify as legal persons and confirm that their registration data does not include personal data, then registrars must publish the registration data in the publicly accessible Registration Data Directory Services."

The Registry reps have included an objection to this. I believe they prefer to see this removed entirely, but if not removed entirely, then they've suggested some edited language. So, we put this forward for the team to discuss how to treat this updated recommendation. Thank you, Keith.

KEITH DRAZEK: Thank you, Caitlin. And look, folks, we need to be cognizant that with compress time [inaudible] to deal with [inaudible] [deadline] is a bit of a challenge for all of us. So, I don't want to take them off the table entirely, but I think we need to be sensitive to the fact that deadlines exist and we have certain procedures that we're

trying to follow. But with that, let's keep focused on perhaps the substance here for a moment.

Laureen and then Alan.

LAUREEN KAPIN: So, here—and I think we've been raising this in our prior comments all along—the guidance doesn't include the key guidance which is that if the legal registration doesn't include personal information, it should be published. I understand that is in the three scenarios, but it's very clear that those scenarios aren't guidance. So, the fact that the money issue, so to speak, is omitted really goes to the crux of our entire position here.

So, I don't want to get held up on a missed deadline at the sacrifice of the substantive point here which we've raised all along in our comments and edits to the proposals. So, this actually is, dare I say, a real true "can't live with" item. To eliminate this from the guidance hobbles the guidance to the point where it's almost ineffectual, so I can't really underscore this enough.

KEITH DRAZEK: Okay. Thanks very much, Laureen. Alan, you're next.

ALAN GREENBERG: Thank you very much. I strongly support what Laureen said. We have guidance which doesn't need to be followed saying, "If you choose 'differentiate' this is how you might go about it." But we don't have the result of it, so we could end up in a situation where

every registrar differentiates every single domain name whether it's legal or natural, and we still end up with publishing nothing. So this, as Laureen said, is the critical one.

But I put my hand up for another reason. The Registry comment is talking about publishing the type whether it's legal or natural, and that's not what this sentence is saying. This #5 is talking about publishing the actual data, not the flag. So, why the data is published may be because of the flag.

You'll remember we also have a recommendation in Phase 1 which any registrant can say, "I want all of my data published." Period. So, I can say, "I want my data published," and it has my personal e-mail address in it, and it's a requirement out of Phase 1. So, the data being published is not necessarily indicative of this flag. But what #5 is saying is, "Publish the data if it is deemed to be a legal entity with no personal data."

So, I think we need to focus on that issue and not another one which isn't what this statement was talking about at all. Thank you.

KEITH DRAZEK: Thanks, Alan. Volker, you're next.

VOLKER GREIMANN: Yes. Thank you, Keith. Just one small correction for what Alan just said. Yes, there is a field that basically—or it's not even a flag. It's just an option that a registrant has to consent to publication of data, but it's not necessarily all-or-nothing consent. I mean, the way that the first recommendation is phrased allows registrars and

registries to interpret that in multiple ways. And one of these ways that I see is for a registrant to consent on a per field basis.

So, if a registrant and says, "I want my name out there but nothing else," that would be legitimate. If he says, "I want my street address out there but not my name," that would be legitimate. So, that's not to say that this is an all-or-nothing consent. This is very much something that registrars can decide. It is something that is field by field. Thank you. [inaudible].

KEITH DRAZEK: Thanks, Volker. Would anybody else like to get in queue on this one? Okay. I see Jan and then Mark SV.

JAN JANSSEN: Thank you, Keith. Just to make sure that I understand what Volker is saying. He was talking about a field-by-field consent, but that should only apply to fields that contain personal data. And if it's confirmed that no personal data is there, then I think this recommendation stands.

KEITH DRAZEK: Thank you, Jan. Mark SV, then Alan Greenberg, then Marc Anderson. And I just want to note that, as we're talking about #5, there's an edit here where it says, "The registrar should publish the registration data, etc.," I think which is consistent with guidance rather than new requirements. But we can have that conversation.

Alan, Marc, and then Hadia.

MARK SVANCAREK: Actually, I'm next. I put my hand down, but then you interrupted me.

KEITH DRAZEK: Yeah. Sorry about that, Mark SV. Go right ahead. [My bad].

MARK SVANCAREK: Yeah, okay. Thanks. So, focusing on the blue text on the screen right now, the question to the registries is, is Alan Greenberg correct when he—because I think he's right. It would appear that this feedback is based on a different topic than what the original text was. It appears that this feedback is in regard to the publication of the natural/legal distinction flag as opposed to the publication of the contact data.

So, it would appear that the Registries Stakeholder Group has provided feedback on a different topic than what bullet #5 actually addresses. If that's the case, they should simply confirm that and then we could move on. And the objection that they raise could be addressed somewhere else in the document, perhaps, but I don't think it actually applies to bullet #5 And if that's the case, then we can just move on. Thanks.

KEITH DRAZEK: Thanks, Mark. Very helpful. I have Alan, Marc Anderson, and then Hadia in queue. And then we need to draw a line under this one.

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And I'll also note. Marc Anderson, since you're in queue, I don't know if you want to respond to Laureen's explanation earlier in terms of the part of the guidance. But just flagging that. I think that one's still out there.

But Alan Greenberg, Marc Anderson, then Hadia.

ALAN GREENBERG: Thank you. Just again to note, as Marc did, the response seems to be in response to something different. And it's something which we already have a question on. Should this legal/natural flag be published in the RDDS or not? Or only provided to the SSAD? So, I hope Marc will give the answer that this was a misread or something because, as Laureen said, certainly for ALAC, this is a do or die one.

KEITH DRAZEK: Thanks. Marc Anderson, over to you.

MARC ANDERSON: Thanks, Keith. So, our concern is with this guidance, not with the flag. We have separate comments on the flag itself which I think we've already discussed in detail. I think Keith did a good job teeing up the discussion. As it says in our comments, we objected to this and suggested it be deleted. But if not, we could live with having it as a "should" rather than a "must".

And there's been a lot of focus in this working group, in discussions, about GDPR being rather EU legislation-centric. But

we do note that registries and registrars operate across many jurisdictions which have different laws, and sometimes those laws are in conflict with each other.

And so, having a blanket "must" here is problematic for us, which is why we objected to it. We don't think it's necessarily fair to say "must" in all circumstances without any caveats or understanding of the broader legal ramifications. So, that's why we objected to it. As this is guidance, I think we could live with a "should", but that's why we put in an objection here.

KEITH DRAZEK: Thanks, Marc. So, I guess the question is, I mean, it sounds like "should" is what we've got in the document right now. And that appears to be a possible path forward.

But I saw a couple of hands go up, so Laureen and then Alan.

LAUREEN KAPIN: Just observe that, since this is already guidance … I'm finding this double layer of permissiveness at least doesn't make sense to me. This is guidance if folks are choosing to differentiate in the first place. If they don't choose to differentiate, then they don't need to follow it. But I mean, the fact that it's all guidance …

I think my big picture point is that this is so watered down already that to now quibble over the "must" versus "should" for something that's already permissive seems a little nonsensical to me.

KEITH DRAZEK: Okay. Thanks, Laureen. Alan, you're next. Then Marc Anderson. Then we do need to bring the meeting towards a close, so I'll put myself in queue after Marc. Go ahead.

ALAN GREENBERG: Yep. Thank you. What Laureen just said. Any registrar/registry has the option of not differentiating, therefore the value will not be set to "legal" and therefore it does not have to be published. So, the option of not publishing is there. We're saying that if you have chosen to differentiate and there's no personal data in it, then it should be published. But there's always an out because you don't have to get to that stage. So, I don't understand the reluctance. Thank you.

KEITH DRAZEK: Thanks, Alan. And, look, I think really what we're talking about here is the distinction between "should" and "must". And I think, as we're talking about guidance, the language currently is, "should." And I think that seems to be what we're discussing. And that's not just on this particular point, but in other parts of the draft text as well.

Marc Anderson, over to you. And then I'll draw a line under this one.

MARC ANDERSON: Thanks, Keith. Your point's well made. I think I'll just add our preferences for the "should" because it allows the possibility to differentiate but not publish which may be desirable in some

circumstances. I think the solution of "you can either differentiate and you must publish or not differentiate at all" is less desirable. I think that could potentially lead to fewer contracted parties, making the decision to differentiate which I think would be counter to the goals that we've discussed so far in this working group. So, I think more flexibility here is preferable.

KEITH DRAZEK: Thanks, Marc. Alan Woods, and then I see Jan. And we're going to have to go over a few minutes here, folks. So, please prepare to stick with us for an extra 5 or 10. 10 is all that I've got, though, because I do have another meeting. I'm sure others do as well. Alan, and then Jan.

ALAN WOODS: Thank you very much, Keith. And apologies. I have literally one statement. I must kind of somewhat, with humor, point out that when both Laureen and Alan were talking about this and they were saying, "In this instance, they should publish it,"—that's exactly what we're saying. In this instance, we should publish it. But what we're saying here is that this is not an all or …

Having a "must" in a guidance just creates this weird issue where you're saying, "In order to follow this guidance, you must do this thing." Therefore, it puts an all or nothing in the guidance. We just think that that's very odd. There are always going to be areas where the registry or the registrants—or the [registrar] in this instance—need to control their risk a little bit more nuanced.

And by saying that we can't in this particular instance, therefore we can't follow the rest of the guidance… I'm not sure why, based on their own words, that they've used saying "should", why this is the problem. I'm a little perturbed by it.

KEITH DRAZEK: Okay. Thanks, Alan. Jan, you're next. And then I'll put myself in queue.

JAN JANSSEN: There is a double conditional in #5. It's double conditional because it's guidance already. And there's a big "if." If the registrants identify as legal persons and if they confirm that their registration data does not include personal data, then they must, it says. But the "must" is only when all the boxes before have been ticked. So, this is guidance by any means, but it is guidance that if you choose to adopt this guidance, then there needs to be some coherence. And that's why the word "must" is in place, as was explained by Alan before, and by Laureen.

KEITH DRAZEK: Thanks, John. So, look. I think we have a clear difference of opinion here on the difference between "should" or "must". I have typed into chat the possibility of an alternative term or phrase, and that would be rather than using the term "must" or "should" maybe we could use "are expected to" because, look, if this is guidance, it is not mandatory. It is not an enforceable requirement in terms of a contractual term or anything like that.

So, I'm wondering if folks have a reaction to including or replacing that for … Sorry—"are expected to publish" rather than "must" or "should". Does anybody object to considering or using the term "are expected to"? And this is just a test right now. It's not necessarily definitive, but I'm just trying to find a path forward on this one. So, if folks could take that on for consideration.

Jan, I see a hand. Is that an old hand? I think it might be. Alan Greenberg, you're next. Let's go to Alan. And if that's a new hand for Jan, he can come back in.

ALAN GREENBERG: Yeah. Thank you. My first reaction is, no, it's not acceptable. And for the record, I view this thing as part of the policy recommendation to include the field. So, we are saying there will be a new field which is optional to use, but if you use it, you must use it in a certain way. So, that's the way I read it. I read this as a "must", and it is a policy recommendation part of the creation of the new field. Thank you.

KEITH DRAZEK: Thank you. I think that's an open question that is called out. I guess I'm not sure that that's something that—whether a contracted party that decides to differentiate, whether they must use the field. I'm not sure that's something that this group is tasked to answer at this time, but we probably need to table this one and take it to the list or take it to a side conversation to try to find a path forward here.

But obviously, we're talking about "should", "must" or possibly "expected to" as the options that we have before us. And again, this is an initial report. We're trying to generate responses from the community to help inform future work.

Caitlin, let me hand it back to you if there's anything else that you want to focus on before we move to wrap. I know that there's a couple of other substantive topics. So, back to you Caitlin.

CAITLIN TUBERGEN: Thank you, Keith. There were two other proposals for new recommendations that were included. One, of course, is the BC/ALAC proposal for web forms, which is Item #4 here. As all of you have seen, there has been some initial feedback to this draft recommendation on the list. We haven't included this change yet in the updated and initial report, mainly because the team hadn't had time to discuss it. It's unlikely we'll have time to discuss it in detail now since we're already over time. But if anyone has any initial reactions, perhaps they can quickly make interventions on this item.

KEITH DRAZEK: Thanks, Caitlin. Alan, go ahead.

ALAN GREENBERG: Thank you. I'm not going to talk about the item itself. I've heard repeatedly that we have to focus on exactly what we were charged. The target of a PDP should not be, "We followed the rules." The target should be good policy.

Now, in this particular case, a decision that apparently has been made—not with my support, but has been made by this EPDP— is that we are not going to recommend the mandating of anonymized, pseudonymized, or any other form of e-mail address. That has an implication and a second order effect that we must address because it's not acceptable to make a decision and then not understand and not address what the impact of that decision is. And that's why this item is here. Thank you.

KEITH DRAZEK: Thanks, Alan. Would anybody else like to get in queue on this? Okay. Caitlin, back to you.

CAITLIN TUBERGEN: Thanks, Keith. And there was one final recommendation. If you can scroll down, Berry. Thank you. This is a new recommendation to be included in the feasibility section. This was recommended by Chris Lewis-Evans.

Chris, I don't know if you'd like to speak to this. I'll note that the Registries Stakeholder Group does disagree with this proposed text and would like it to be deleted. So, we have noted that the EPDP Team needs to discuss how to handle this. Thank you.

KEITH DRAZEK: Okay. Thanks, Caitlin. Chris, go ahead.

CHRIS LEWIS-EVANS: Yeah. Thanks. So, in the "can't live with" documents, the Registrars actually provided some alternative text which I think we could agree with if the Registry group could also agree with it.

KEITH DRAZEK: Thanks, Chris. Alan, go right ahead. Thanks.

ALAN WOODS: Thank you. To be honest, I haven't actually seen that and more than happy to review it. And just for the record, the reason why we didn't particularly like this was it, as guidance goes, [inaudible] thing, "Registrars can do it as long as it is in line with the law." And we didn't believe that there as much value in that statement. But if there is a different proposed text out there, happy to consider it [inaudible].

KEITH DRAZEK: Great. Thanks, Chris. And thanks, Alan, for that. Laureen, you're next. Go ahead.

LAUREEN KAPIN: Just briefly. I know that this was sort of [inaudible] with, "Well, this is their text. How could we possibly look at this?" But actually, this is the whole point of all the discussions that have taken place on unique context which, I think, because of the complexity of the natural/legal issues, have gotten far less time.

So, just to say that this is not a new concept. This actually has been the crux of all those discussions and we're just trying to

make sure this is captured so that it can be identified for public comment. And hopefully, with the Registrars' suggested text which we don't oppose, we can get to yes on this.

KEITH DRAZEK: Thanks very much, Laureen, for that. So, it sounds like there's some additional work to be done there, but it sounds like we're much closer. So, that's great news.

So, I guess the question remains, as we move to wrap things up, how are we dealing with the bracketed language? And I think we have some more work to do in each one of these areas. And if there's a clear path forward that allows us to include text, then excellent. If it appears that there is a significant difference as it relates to these items that were submitted after the deadline, then it may make sense for us to set them aside.

So, I want to provide an opportunity and a path for including if it's non- contentious. But if it becomes significantly contentious or it appears that there's no compromise path forward on the text in fairly short order, then it probably needs to be set aside.

Laureen and then Marc.

LAUREEN KAPIN: Sorry. That's an old hand. I'm lowering it.

KEITH DRAZEK: Okay. Thanks, Laureen. No worries. Marc Anderson, over to you. And then we'll move to wrap things up.

MARC ANDERSON: Thanks, Keith. Just, I guess, a clarifying question on this new proposed language on unique contacts. Is this being proposed as guidance for … So, this is question #2 which is on feasibility of unique contacts which, like the previous question, has two aspects. Should there be a change to the policy or should differentiation be required? Or if not, is there any guidance?

So, I guess my question is, is this being proposed as a change or as guidance? Because I think that would make a difference.

Okay. And I see Laureen saying that the proposal would be a guidance. Okay, thank you. That's helpful.

KEITH DRAZEK: Great. Thanks, Marc. And thanks, Laureen, for the clarification. Alan Greenberg, your hand is up, and I will give you the last word here before we hand it back to Caitlin and we move to wrap things up.

ALAN GREENBERG: Thank you. Just a quick question. I think I want clarity on whether the bracketed items that were added after the deadline will be included as questions at least, or omitted completely from the text. Thank you.

KEITH DRAZEK: Yeah. Thanks, Alan.

ALAN GREENBERG: I hope it's the former not the latter.

KEITH DRAZEK: Yeah. Thanks, Alan. I'll try to clarify what I think I said, and that's if there's general agreement that they can be included maybe after a little bit more wordsmithing, then I'm totally fine with including them. However, if there's a significant disagreement because they were submitted after the deadline, then perhaps we need to set them aside in the interest of time.

My preference would be to include things that are not contentious, but I'm just cognizant that we're running short on time and to include something that is a new thing that's another problem is not something that we need at this point. I hope that answers the question.

Caitlin, if I could hand it back to you and to staff to wrap things up here. My sense is that we will … Actually, let me pause there. Caitlin, are we done with the substantive issue under the blue items at this point?

CAITLIN TUBERGEN: Yes. Thank you, Keith.

KEITH DRAZEK: Thanks. Just wanted to confirm that. So, look folks, I think, based on the conversation today—and thank you all so much for the constructive engagement and the good discussion here. And

based on the feedback throughout the call and at the beginning of the call, I am still committed, and I know the staff is still committed to helping support and facilitate the work of this group to an initial report.

It sounds, from what I'm hearing, that we're closer than perhaps I thought, and that there's good work that can still be done. It's really, really important over the next 24 hours or 36 hours, or whatever it may be, that folks spend the time on this. I know it's easier said than done, but this is one of those clear-the-calendar moments where it's time to allocate the time necessary to get this across the finish line for an initial report.

And then, I do think that we should probably schedule meetings for Tuesday and Thursday of next week with a goal of bringing this into a final state by next Friday. And so, a week from tomorrow. So, that's my thinking at this point and we do need to wrap up this call. But let me hand this over to Caitlin now for a final staff perspective. And then we'll close the call.

CAITLIN TUBERGEN: Thank you, Keith. As I noted earlier, what staff will do is submit the notes from today's call along with a link to a document that allows everyone to submit minor edits, and also a separate table to submit clarifying questions and concerns based on the latest iteration of the initial report. Please pay attention to the redline language and see if that introduces any sort of new concerns or questions.

With respect to the bracket and language, as Keith noted, it would be great if we could include these in some form of question. So, if it's important to you, by all means include it as a question for the group to consider. However, if there is significant disagreement, we won't go ahead and add that language.

But by close of business Friday, please populate both tables— minor edits, clarifying questions, and concerns. And staff will endeavor to produce the updated version of the initial report and any outstanding items for the group by Monday. Thank you.

KEITH DRAZEK: Thank you very much, Caitlin. Excellent summary. That's the homework. That's the action items. So, we will go ahead and wrap things up today. Thanks to everybody for your time and for the work that you're going to do over the next 24 hours in the next week. And thanks, as always, to staff for the work that they'll do over the weekend to try to keep us moving.

So with that, thanks, everybody for the extra time. And we'll talk again on Tuesday. Thank you.

TERRI AGNEW: Thank you, everyone. Once again, the meeting has been adjourned. I'll stop the recordings and disconnect all remaining lines. Stay well.

[END OF TRANSCRIPT]