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ICANN Transcription

Registration Data Accuracy Scoping Team

Thursday, 03 March 2022 at 14:00 UTC

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TERRI AGNEW: Good morning, good afternoon, and good evening. Welcome to the Registration Data Accuracy Scoping Team taking place on Thursday, the 3rd of March 2022 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 do have listed apologies from Owen Smigelski and Toba Obaniyi.

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 members will be promoted to panelists for today's call. Members, when using chat, please select everyone in order for all

to see your chat. Observers will have view-only to the chat. Alternates not replacing a member are required to rename their lines but adding three Z's at beginning of your name and at the end in parentheses the word alternate, which means you're 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 functionality such as raising hands or agreeing or disagreeing.

All documentation information can be found on the wiki space. Recordings will be posted on the public wiki space shortly after the end of the call. Please remember to state your name before speaking. As a reminder, those who take part in the ICANN multistakeholder process are to comply with the Expected Standards of Behavior. With this, I'll turn it back over to our chair, Michael Palage. Please begin.

MICHAEL PALAGE: Thank you, Terri. Good morning, good afternoon, and good evening, everyone. So as usual, we're going to start off with a quick administrative update here. What I'd like to do is address two high-level things. The first is what we are going to be doing next week, the format of next week's meeting, which is going to be open to other members of the broader ICANN community as part of ICANN73. Instead of doing, if you will, continuing with our normal agenda, one of the things that we're going to be doing is actually trying to walk through one of the tables that we had discussed last week, which lists the issues, the pros and the cons.

Marika, is it possible if you could throw that up on screen real quick?

MARIKA KONINGS: Yes, but actually, we didn't look at that last week. Last week, we looked at another document which focused on the ARS study.

MICHAEL PALAGE: Yeah, this is the new one that was in response to Marc Anderson's request. That's the one I'm talking about.

MARIKA KONINGS: Yes. Bear with me one second.

MICHAEL PALAGE: So, see, Marc, we do listen. One of the reasons that we're proposing to use this document is it does a really good high-level overview. We think it does a really good high-level overview of some of the proposals that have been made. We kind of looked upside pros, cons, possible next steps. So this was something that was discussed last week, I believe. Again, it was put forward by Marc Anderson, from the Registry Stakeholder Group as a way of our moving forward with our work.

So if you could just go scroll through this real quick, we're going to be looking at proposals that had been made as far as potential surveys to the registrar. And we think that this overall will be a way of summarizing the totality of the work that we have done here.

Marika, has this document been posted to the entire group yet, or is it on the wiki?

MARIKA KONINGS: No. It has not yet. Is it worth if I briefly just walk through what this is so people can look at it after the call?

MICHAEL PALAGE: Yes.

MARIKA KONINGS: Okay, great. So basically, I think Marc suggested this during last week's meeting that it might be helpful to look through the input that has been received from the different groups with regards to and how data can be obtained or found. So what we did is we went through all the different suggestions that were made in the gap analysis. I know we still have one piece of input to cover during today's meeting but we already factored that in here as well. We were able to distill a number of specific proposals. So we've indicated them here with specific headings. And in some cases, we already have grouped proposals together because the work groups that suggested similar or like proposals to pursue.

So what we did for each of those that you see here, there's a heading of what the proposal is. There was one proposal, to take an example here, to serve a registrar and as part of the proposal, there are already a number of specific questions identified that registrars could be asked to provide input on. Then we tried as well to indicate what's the upside of this approach and what's the

potential downside of pursuing this approach. For example, in this specific case that the downsides were already identified by those that provided that input and some of the upsides came out of the conversations or something that, at least from our perspective, seems to be an obvious upside of that proposal.

Then we've identified as well a number of possible next steps. Again, in an attempt to pursue the proposal further and see whether or not it's feasible and/or what needs to happen to make it feasible. At least from our perspective, this document is not intended to be "let's only pick one" and that's the preferred proposal that needs to be pursued. I think there's definitely an option here to pursue various of these proposals, especially to see which ones of these are viable or what needs to happen to actually be able to implement these.

So, as Michael said, the idea would be that we circulate this document after the call so you can have a look at it. We did identify a couple of specific questions for a number of groups where we weren't clear or where further details on the specific proposals might be helpful. Then of course, we hope that you can have a look before Monday's meeting so we can actually start going through these and further identify potential upsides and potential downsides, and specifically then focusing as well what could be concrete next steps to further pursue that avenue.

So as I said, there are a couple of proposals here. There was a proposal as well for a third party assessment that could be conducted. ICANN Org registrar audits, review of existing accuracy complaints. Data processing agreements, we flag that here. It seems to be a bit of a more of an overarching issue that

may be applicable or may need to be resolved for a number of the proposals that have been identified. But for now, we flagged here as a separate proposal. Study or restart of ARS, third party monitoring, and then there was a last proposal as well, implementation of the RDS Review Team recommendations. As I said here, we do have a specific question for the BC to provide some further clarification. And I think in the previous one, we had as well a question for the IPC to have a look at whether this specific proposal can be consolidated with one of the other ones.

So that's in a nutshell what we've done and we hope will help move forward the conversation by really looking at the specific proposals and further examining if or how these can potentially be implemented. So that's it in a nutshell.

MICHAEL PALAGE: Thank you, Marika. Again, the reason that we're trying to do this is at the start of next week's meeting, I will start off with a brief, say, three to five-minute introduction that will largely be reflective of the briefing that Olga and I had done as part of the larger GNSO policy work. And the intention there is for someone who may be attending their first Accuracy Scoping group, we kind of want to tee it off and say, "This is what we were chartered to do. This is what we have done. This is where we are at." I will probably give the obligatory Barry was right, this has taken longer than we originally anticipated and we're buying schedule. But after we do that, instead of driving down into some of the discussions on this definition or that definition, I think this document right here is a good way of getting into the gap analysis, which then will tie back into some of the definition in our other homework assignments. So

that is the thought. As Marika said, we'll make this document available after today's call.

With that, the only other administrative thing—Thomas, I'm going to give you a heads up, you're going to be up next, I believe. I believe the IPC is one of the next groups. So I just want to give you a heads up. But getting back to the point of what we are trying to do over the past couple of days, we, I think, as a group, have made effective use of the mailing list to move forward with some issues. And as I think had articulated in my exchange with Roger yesterday, I do think we are getting to a point where we need to either agree or agree to disagree on some of these important assignment one and assignment two issues. We need to do that and, if you will, kind of bring that to closure, and then get that off to counsel. At that point in time, that may provide an interesting inflection point or break point in what we, as a group, decide to do next, specifically with some of the recommendations that may require additional funding from ICANN to undertake some of these surveys.

So with that, I am going to hit pause to see if there are any questions, comments, or concerns before we revert back to our normal work assignment, including the wrapping up of the measure of accuracy. Seeing no hands, if we can, Thomas, I believe you are up. I believe the IPC is the last remaining stakeholder group, so you have the floor.

THOMAS RICKERT: Thanks very much, Mike, and hi, everybody. Our comments are not to worry so this is going to be quick. We've certainly taken a

look at the input that other groups have provided and a lot has been said that's very valuable. So first of all, the entity in charge of measuring accuracy should be the registrar because the registrar is actually the entity that collects the data and has the richest dataset at its fingertips in order to do any checks. The RAA spells out the accuracy requirements. So as the registrars mentioned in the comments, we should build on the WHOIS Accuracy Program Specification and use third party reports on allegedly inaccurate data, and also rectification requests or information requests that are issued by data subjects themselves. So those we think are good indicators to measure accuracy. You can also collect and compare the different data points with other registrars' data points to see how the quality of data is with one registrar versus the other all throughout the entire group of ICANN accredited registrars.

As others have pointed out—the Registries have pointed it out but also the ALAC and the BC, if I'm not mistaken—some of this work is hampered by the fact that there are no data protection arrangements in place between the parties. So, ICANN will not be able to see the actual data but still the methodology of measuring accuracy can be agreed upon and ICANN audits can check whether the given registrar is applying this methodology accurately. So once you can't drill down to the data itself, you can check whether the registrars are doing their homework with respect to applying the correct methodology to determine the level of accuracy.

And yeah, we point out over and over again that we need data protection arrangements between the parties. We've discussed in other places but also here the point that there's likely a joint

controller scenario or a situation given between the contracted parties and ICANN, and one could within the framework of a joint controller agreement allocate a functional responsibility for the accuracy question to ICANN. But absent that, this is sort of nothing that can really be done.

So in the next column moving to the right, we've just made the point again that registrars could be asked to share aggregated data. So, no data that's actually personal data but aggregated data that doesn't allow for reengineering it to the actual dataset level. ICANN audits can focus on WHOIS accuracy and their findings can be reported to the scoping team. So that's one point. But other measures, as I just mentioned, are sort of futile to further discuss absent appropriate arrangements between the contracted parties and ICANN. So that's it from us. Thanks so much, Michael. Over to you.

MICHAEL PALAGE: Thank you, Thomas. So if I could just ask perhaps a couple of follow-up or clarifying questions. Let me first start off with a statement and I would agree with Stephanie. I think I agree. I know Becky Burr has identified the lack of a DPA is a potential red herring in connection with some of the work that we're doing here. Whether it is or is not, I believe—my personal opinion, having a DPA will just remove that from the overall equation of uncertainty. And more importantly, for most of the contracting parties, as well as data subjects, just provide clarity. So anytime we could provide clarity or predictability, that's a good thing. So, I am totally aligned with the comments that you and Stephanie have said on this point.

The one thing, the points of clarification, in talking about registries, so I am in full agreement that 98% of most gTLD registration data is generally, if you will, controlled or the main point of contact is the registrar. Did the IPC at all look at those registries that do at times interject themselves with some of the data—the .banks, the .pharmacies, the .cpas, .realtors and others? Yes, Marika. It's the ISPs, yes. The ISPs. I apologize, Thomas, I look at you and I consider you an IP attorney as well. So the ISPs. In looking at that, did the ISPs look at that at all in connection with those registries that may be involved in collecting other datasets? Or is it primarily—yeah?

THOMAS RICKERT: We were primarily focusing on the overall data flow. So the registries that are using special eligibility requirements such as .bank, that would be applicable to hash our vetting requirements prior to registration anyway, at least in the case that I'm aware of. So I'm not sure whether the accuracy issue really exists to that extent with those restricted TLDs as well. But I guess the main argument for leaving or seeing the registrars in the driver's seat for this is that the registrar collects all the data that's permissible to be collected while it's only a subset of the data will be transferred to the registry, so that dataset is already richer. And then what tends to be forgotten is that in these discussions, we're pretty much focusing on the registration data only. But actually, the registrar also holds account of all the data. I think the registrar colleagues would need to speak to that. I'm in no way suggesting that I could speak on their behalf or for them. But if there's something wrong with the dataset and if there's a complaint that

data is inaccurate, I think that the natural next step for the registrar to undertake would be to look at the account holder data to see whether the data is plausible, whether it's been used for the account holder as well. So that's to say that when it comes to rectifying data, the registrar has the biggest pool of data that they can take a look at in order to help with complaints.

MICHAEL PALAGE: That's helpful. I guess the one other thing—and I'm just mindful of time—is the role of resellers in the overall equation. To me, resellers—and I know Volker I think has raised this point in the past on the relationship with that customer and where resellers fit in. To me, they probably have been one of the overlooked, one of the unaccounted links in the overall domain name ecosystem that may not have a direct contractual relationship, yet play an incredibly important part, and again, particularly with ISPs that may provide those rehosting and other support services. So, great.

THOMAS RICKERT: If I may, that's another reason for looking at the RAA, specifically, and the registrar's role. As you mentioned, the registrars have resellers and they are in the best position to reach out to their contact points with a reseller to ask questions and get data confirmed or updated. Also, I think that's another reason for them to be in the best position to work on this topic.

But I'd also like to comment on the red herring point that Becky made. Certainly you can do an awful lot by drafting additional data

protection or data processing agreements that would entitle ICANN to do certain things. But then again, the question is what are we trying to achieve? When we worked on Phase 1 of the EPDP, we asked ICANN and the contracted parties to come up with appropriate data protection arrangements. We call them arrangements because arrangement is actually the terminology that's used in Article 26 of the GDPR, which clearly suggests that we were thinking of joint controller scenario as well. If we assume joint controller situation to be present, what can be done there opposed to in a data processing agreement is that you can allocate functional responsibility for certain things. So you can say that the registrar is responsible for collecting the data, providing information on the data processing to registrants according to Article 13, which is the catalog of things that data subjects need to be informed about. So if something goes wrong in that regard, it's on the registrar because they messed that up.

But you can also say that looking at accuracy and doing certain things as an ICANN, and ICANN assumes that functional responsibility in this overall scheme. I think that will only be fair because if something goes wrong in that regard, then it would be ICANN's responsibility to take care of that. Then also indemnify, if need be, the contracted parties if something goes wrong in that regard. So that was the original architecture as it was envisaged in the EPDP Phase 1, but it looks like we are not really getting these agreements drafted. That's what we're seeing here, that we're seeing in the SSAD discussion. So I think that's something that needs to be fixed rather sooner than later so that we can make substantial progress with these discussions. Thank you.

MICHAEL PALAGE: Thank you. Maybe we can get Stephanie to get a data privacy impact assessment. I know that's been on her list for the last three to five years. With that, Marika, if you could just give me a quick check. I believe we have now gone through all stakeholder groups regarding the measure of accuracy, that particular assignment. Am I correct?

MARIKA KONINGS: Yes. I just put it in the Zoom chat.

MICHAEL PALAGE: Okay. Sorry.

MARIKA KONINGS: Sorry. Probably looking at the wrong—

MICHAEL PALAGE: Yes. That's probably the most important task for any ICANN chairs. Can you quadruple task and look at multiple chats and multiple screens at the same time in queues. Okay. With that, I think we now need to move on to the accuracy working definition as next up.

I'm just doing a quick look of—all right, Scott, I was just noting Lori's comments in the chat that she is in listen-only mode right now. So I'm going to be calling on you when we get to the IPC. Okay. What happens here is—so if we could scroll down. Just by

way of background and to set this in context. The registrars—and please correct me if I overstepped here, Sarah, Roger, or Volker. While we have talked about using the term definition, working definition, explanation, I believe that the Registrar Stakeholder Group have instead chosen to use the terminology, what are the contractual requirements set forth in the 2013 RAA. So, that is something that they have been very clear about. If you go back just real quick, Marika, to the proposed construct definition, this largely what has been said here is based on that 2013 agreement. As I have noted in some of the e-mails, this original, if you will, black and white definition that spoke to the syntactical and operational elements as set forth in the 2013 RAA, there was some additional clarification from ICANN Compliance through our questions that said there's a little bit of gray, and part of what we are trying to do now, particularly as we hopefully reach agreement on what that definition of accuracy is and what that gap analysis and what next steps as we do this, it's really important for us as a group to again revisit this because we need to put that first assignment to bed so that we could really move forward.

So with that, Sarah, Roger, and Volker, did I get it right that time? Or did I misspeak on the Registrar's statement on this particular assignment? I see a hand up. Let me get to the hand. Roger, you have the floor.

ROGER CARNEY: Thanks, Michael. I like how you started that out and saying these are the contractual requirements. I just want to expand a little because you focused on the 2013 RAA. Just so everybody knows, that includes every consensus policy as well. Our contract has a

clause in that it forces the contract to include all consensus policies. So it's not just a contract. It's the contract and consensus policies.

The second point, I'd like to make is ICANN Compliance did respond to a question I think that we had sent them. But if you read through their responses, they're not changing the requirements that we suggested or that we pulled out of our contract. They're actually saying when they go back to those requirements. This is a timing issue, I think. If you look at every one of the ICANN things, they're not adding any requirements. They're just suggesting when those requirements are tested. So just those couple of points. Thanks, Michael.

MICHAEL PALAGE: Okay. With that, we will now go to the groups that have provided feedback on that. First up, Scott. Okay. Thank you, Marika. Real quick. Thank you, Marika, for highlighting the text. The assignment, as Marika has highlighted, is based upon the proposed working definition, based on contractual requirements and consensus requirements set forth and embodied in the 2013 RAA. These are discussion points or potential changes or enhancements that would like to be made by the other respective members. But before getting to that, Alan, you have your hand up. You have the floor.

ALAN GREENBERG: Thank you. I'm a little bit confused here. We were asked to comment on the words that were in that document saying, "As

proposed by the Registrar Stakeholder Group, accuracy shall be strictly defined." What you're now saying is, "Oh yeah, but what it really meant was in the 2013 RAA and associated documents, this is how accuracy is currently implemented." Those two are very, very different things. So are we being asked to comment on that statement, which is what I, and I think many others, responded to in this Google Doc? Or were we supposed to be interpreting it? If indeed, this really reads, "This is how accuracy is currently implemented in accordance with current policy," then my response is completely different than what it was. So if we're going to use our time productively, I want to make sure that we answered the right question if we're now going to spend time reviewing those answers. Thank you.

MICHAEL PALAGE: All right. Let me go to Steve, and then I'll come back to you, Alan. Go ahead, Steve.

STEVE CROCKER: Thanks, Michael. Just to build on Alan's point and respond in part to the note that Volker sent. Let me understand what's going on here. Are we trying to prepare the ground for future decisions about what the accuracy requirements should be, which is what I assumed a scoping team exercises about, or are we actually making decisions that foreclose all possible decisions. That is, is this now trying to sort of cap any discussion about accuracy? Accuracy is defined in the following way and that's the end of the discussion. I hope it's not that, but I sense that not everyone is on the same page here.

There are multiple levels of accuracy. It is useful to have multiple definitions for the different levels of accuracy, and it's useful to have those available for future policy discussions. Excuse me. This is not the time to be shutting those off.

MICHAEL PALAGE: Okay. I'm processing all this. Scott, I will come back. You have the floor, Scott.

SCOTT AUSTIN: Oh, I'm sorry, Michael. I thought you were going to get back to me later.

MICHAEL PALAGE: Oh, just real quick. Let me just hit pause here. You're first up in the queue. What I'm trying to do is there seems to be some—well, I want to make sure we're all on the same page, which is at times very difficult. So what I'll do is if you can go to mute because you got a lot of background noise. Melina, you're next in the queue.

MELINA ASIMINA STROUNGI: Sorry I'm confused. Should I go ahead?

MICHAEL PALAGE: No. Is this about what we're talking about as far as what the assignment is? Before I articulate, I want to listen to all the inputs, and then people could tell me how I've gotten it wrong. But at least

I want to listen to everything, and then try to synthesize what I've heard from everyone.

MELINA ASIMINA STROUNGI: Okay. I know precisely this is about—yeah. Indeed, this is for the point and the comments I heard, and I understand that also from the changes in the mailing list, I understand that there is confusion from all of us. And of course, we have to make sure we are replying to the same question.

I personally find problematic this highlighted sentence I see in the Google Doc because there is an inherent confusion in the sentence itself. So the way I see it—it's just my personal view but I think also other groups see the same way, but I think actually all of us see it in the same way—is that there is a difference between what is currently required contractually and what is or should be a working definition as a task of this Accuracy Scoping Team. There is a difference between describing what exists under the RAA in general, the consensus policy, and what is currently there, and a difference between that and the working definition that we are tasked by the GNSO Council to do. If you look closely at the GNSO instructions, when they refer specifically to the working definition, they don't limit it to the current requirements, as it is implied in the highlighted sentence I see now in front of me, they also say that we should take into account any input from ICANN Compliance, and that we should also take into account the PDP identified purposes.

So these two elements are contained in the GNSO instructions. So I suspect we all agree that when discussing about the working

definition, we should incorporate these instructions as well. Now, this of course does not prohibit us from what I find useful to know what is currently there. But this is something different. We can call it current contractual reality but it's not enough to build a working definition. I hope this clarifies. Thanks.

MICHAEL PALAGE: Stephanie, you have the floor.

STEPHANIE PERRIN: Thank you very much. I wanted to express my confusion as well. I'd like to also put in a plea for considering the use of the term data quality, which is really what we're measuring here. It's a little hard to measure data accuracy, particularly if you're going to start defining it the way it has been defined. And I'm not trying to break—well, I am. I'm trying to break with tradition because it's been called accuracy and that's a binary quality. The data is either accurate or it's inaccurate. And what we're really talking about is how it's presented, whether it's formatted correctly, whether it is updated within what we consider to be a reasonable timeframe. Those are all things we can measure and change and disagree on the extent to which something has to be at a certain level.

At any rate, my confusion is in response to this reliance on the 2013 RAA. I recognize that at the time the 2013 RAA was drafted, it was the only policy instrument we had and that that policy instrument is bifurcated into what is considered to be "policy" and what is considered to be outside the picket fence and the sole territory that is negotiated between the contracted parties and

ICANN. Now that, as it relates to personal data, implies a role for ICANN that has as yet not been defined and made public through a data protection agreement between the parties. I realized that ICANN has made some progress in stating how it sees itself vis-à-vis controller, co-controller, but the actual details of that are still muddy because we're relying on a 2013 agreement that was hatched without any attention to data protection law, other than a throwaway line that said that controller should comply with law as long as it's cleared by that ridiculous procedure that they were obliged to go through to comply with law.

Now, getting back to why that's a problem. Well, some of the issues that we are arguing about in terms of accuracy are—as I understand it, and I don't claim to understand the picket fence very well—but they're on the other side of the picket fence. That implies that ICANN is the controller because they're imposing all kinds of things on contracted parties. If this were a negotiated policy, then ICANN could argue that it is not the controller, but if they are the contract the party, then they are presumably operating under some kind of authority that gives them the right to impose those quality requirements. I hope that I have been clear and I hope that you can clear up my confusion if I'm wrong.

MICHAEL PALAGE: I don't know about being able to solve the confusion. Minimize confusion, I guess, will be the objective that I'm striving for. I'm going to go to Roger, Marc, and then Marika will try to bring this all together. So, Roger, you have the floor.

ROGER CARNEY: Thanks, Michael. I think that maybe, Stephanie, I've been thinking about this after I read the GAC response earlier in the week. I think Stephanie may have hit on it, though. Maybe a little different terms than I used. She mentioned that accuracy is binary. When you say accuracy by itself, maybe it is. I think it's the quality part which I always assumed a degree of accuracy. But either way, the quality makes sense to me as well. I think that Stephanie made the point—and I think the GAC does in their comments—that accuracy—and Michael, you started this conversation by saying these were the contractual requirements, which I think everybody has agreed with so far. I think the problem is, when we talk about accuracy and requirements, they're not the same thing. So the goal here is to be accurate to contactability, which maybe Steve can correct me, but I think since day one, it wasn't registration data at the time, Steve can provide whatever it was called then. But basically, when we started WHOIS and there is data about contacts, the goal was contactability. So the accuracy to me is can you contact somebody, and that accuracy is determined on if you can contact them or not. And it gets back to Stephanie's intervention on the binary solution here.

I think what we're looking at here is the requirements that we've put in place to achieve that accuracy. So these are the requirements to achieve the accuracy that's not accuracy in itself. I think accuracy is that are these contacts contactable? Again, it gets back to Stephanie's binary solution there. If it is okay, then it's accurate, and if not—and these are just the requirements to get to that level of accuracy that makes sense.

So I think that, is this wording here and highlight kind of confusing? I think so because the working definition, I think, is throwing everybody off. And it's not proposed, by the way, but it's the working definition, I think, is not correct. It's just what you said, Michael, how we started this was the contractual requirements that exist today. I think what we did was we provided the contractual requirements, and again, that includes consensus policies where they affect that, and then ICANN responded to that.

So I think this question was meant to be. I don't know. Marika maybe can jump in on that, too. Are there additional requirements that that the RrSG did not put in their definition by the ICANN comments? Again, that's what I suggested when I interrupted earlier was I think that our requirements are listed above and that come directly from the contract, as everybody knows, and ICANN provided comments but I think those comments were more toward when to use or check those requirements, not adding additional requirements. I think that this question is based on that. Okay. There's a set of requirements, ICANN said something, ICANN Compliance provided some other. Is there anything in what ICANN said that should be added to those requirements, I think, is what this question was meant to do. Again, I think that the proposed working definition is kind of throwing everybody off. But just my thoughts on that. Thanks, Michael.

MICHAEL PALAGE: Marc, you have the last word. Well, potentially last word before we go back to Marika and try to synthesize this as a path forward. You have the floor.

MARC ANDERSON: Thanks, Michael. Thanks, everybody, for your interventions. It's been clear to me that we're not on the same page and talking past each other a little bit. It's not particularly clear to me where the disconnect was. I found this discussion sort of helpful in sort of highlighting where people are looking at it differently. So from that perspective, I think this has been helpful and worth the time.

So with that spirit, I want to try and share a little bit how I've been looking at it. So hopefully, that'll be helpful to other people as well. So I've been looking at this assignment. In the context of our first charge to the scoping team, and I understood it to be looking at what the existing definition of accuracy is in the current state of play. I guess the term working definition has different meanings to other people. But to me, I interpreted it to mean just capture what the current definition is, not necessarily what it should be. I thought part of our job was to understand what the current definition is and consider if the current definition is working, and if not, suggest changes to the current definition. I thought that was captured again in our first charge, the scoping team, which notes the understanding the working definition doesn't preclude any subsequent efforts. So I interpreted that to mean that as part of our work as a scoping team, we're supposed to fact find and understand what the current definition being used within the ICANN space for accuracy is, and that if we find that lacking, we may recommend a follow-up work to change that definition or consider changing or changes to that definition as follow-up work.

So I'm happy to be corrected. I'm not arguing that I'm right or anybody else is wrong. I found other people's interventions helpful

in understanding how they were considering and looking at it. I hope that's helpful in helping others understand how I've been looking at it and understanding our sentiments.

MICHAEL PALAGE: All right. Thank you. Marika, I will let you go, and then I will attempt to synthesize and go forward.

MARIKA KONINGS: Thanks, Michael. I think Marc has said very well. I think indeed, where the group has struggled is with the use of working definition. I know we tried to move away from it very early on, but some insisted that we should keep using that terminology, and that has led to confusion.

Melina already pointed to the references in the assignment itself. But it's important to take note of that reference to a working definition appears in the first assignment, the enforcement and reporting, which is really focused on understanding the current environment, the current situation, which then also helps with completing assignment two, which is the measurement of accuracy under the current requirements that exist. That allows them to move in phase or in assignments three and four to look at. If issues are identified, what should it be, or could it be, or should it evolve to? So I think at least from a staff perspective, I think we fully agree with Marc just explained as this process that there needs to be agreement on what the current requirements and enforcement are. The Registrar team provided a description of that. ICANN Compliance provided further input. So the question is

based on that additional input, does there need to be changes to that description provided by the Registrar team to accurately describe what is currently required and enforced so that they can also be used to measure against? So if we obtain data, can we measure against what the current requirements are being sufficiently met? And if not, what gaps exist? What should potentially that the current requirements evolve to through policy development or other work? That's again a topic of conversation in assignments three and four. So we're not at yet.

Indeed, having looked at some of the proposals here, it seems that people are already jumping ahead to what you would like to see. But again, from our perspective, that's for a next stage of work. We're really trying here to make sure everyone's on the same page with what is currently required and enforced so that we can also use that then as the benchmark for measuring whether or not those existing requirements are being met and effectively enforced. So I hope that's helpful.

MICHAEL PALAGE: Yes. Melina, you have the floor. Then I will try to articulate where I think we go forward next as a group.

MELINA ASIMINA STROUNGI: Thanks, Michael. I will try to be quick because I don't want to stall the progress of the discussion. I would have to disagree with Merika, at least the way I understand the instructions and have them in front of me. I realize, of course, that we're under assignment one, enforcement and reporting. And in that same

paragraph, referring to the accuracy working definition, it says that particular attention should be given to the definition that ICANN Compliance employs. And then in the end, it says, "In carrying out its work above," and by above it means also under assignment one, "the scoping team is expected to take into account the policy recommendations from the EPDP that have been adopted by the GNSO Council." So to me, it's clear that this element should be included when we are talking about working definition.

Just regarding Marc's comment on the current definition, I think we all agree that there is not a current definition. We only have currently a set of specific obligations, and the set of obligations does not qualify as a definition. So maybe to facilitate and avoid confusion, a proposal will be when we're referring to current contractual reality to refer to it as current description of accuracy obligations, and when we're talking about the working definition, as we're tasked to do, to then only use the word definition for that part. Thanks.

MICHAEL PALAGE: Okay. So I'm going to attempt to distill and provide a path forward. I think this actually aligns with some of the e-mail threads that I exchanged yesterday. I think when we started here, the Registrar Stakeholder Group put forward again a definition based upon the interpretations of their contractual requirements set forth in the 2013 RAA. At the very beginning and for those that want to go back and listen, I initially raised concerns about the preamble to that, which shall be strictly defined, and I know this was discussed.

So, as I said yesterday in the e-mail, I started as chair with a rebuttable presumption that this was a binary process. I really like what Stephanie says. One definition of accuracy is it is binary. It is either accurate or inaccurate. There is not a lot of gray. And with that, I started as chair, I looked at what the Registrars were proposing based upon what is contained in the 2013 RAA, that you need to have syntactical as well as operational verification of one of the two elements, either e-mail or phone. So that is what we started out with.

Now, when we got feedback from ICANN Org, from Compliance, and perhaps instead of calling it a working definition, perhaps we should call it ICANN Compliance standard operating procedure, when we looked at how they were interpreting or enforcing those 2013 RAA requirements, there was more than just syntactical and operational. In fact, in response to the question about the Mickey Mouse, they sat there and talked about patently false. Again, thank you for highlighting that. It's not limited to. So when I as chair saw that feedback, to me, I transitioned from this is no longer a binary. Are we just looking at the 2013? Is it syntactical and did one of these two fields—were they operationally validated? There was something more, there was a gap. That, to me, is what we, as a group, need to be focusing on. What is what is more? What is that gray? Is it a little gray? Is it a lot of gray? That is part of the gap analysis. This analysis will help guide us towards assignments three and four.

So going back to the questions that I think Steve and I think Melina and others have said is we are not, if you will, excluding, we're not handcuffing ourselves here. What we're doing is we're

taking in analysis. We're trying to gather what the current state is. The current state, either Contractual Compliance, SOP, whatever we want to do, we're trying to document the current state, realize that there is a gap, and then provide a path forward. That's what I'm trying to do as a chair and how we go forward. Any objections, questions, or concerns? And now, maybe, Alan, I'll go back to you. Stephanie, you have a floor.

STEPHANIE PERRIN: Thanks. I would just like to ask another clarifying question. I did raise the point that the current RAA has not been revised to look at whether the requirements comply with the GDPR. So when were we going to do that and how? Is that within scope of this team? I would say not. This team, as just described, is relying on current requirements. Current requirements may need to be just as we removed some of the elements that are in the section that defines which data elements. We did remove the data elements that would no longer be gathered pursuant to GDPR requirements, but we haven't actually looked at some of the other stuff and we certainly haven't looked at accuracy with the GDPR lens. That's what we're supposed to be doing. I would have thought. So I'm a bit confused.

MICHAEL PALAGE: I don't believe that our remit per se would involve trying to, if you will, opine on whether the GDPR somehow should have an impact on future changes to the 2013 RAA. What I would do, however, that's what I'm leaning towards. I do want to be careful. I know accuracy was a hotly debated topic in the EPDP work. I know

there were memos and whether the accuracy was that to the benefit of the registrant or third party, I know that was discussed. So I want to be careful here. Again, I know Melina was referring back to the scope of our remit. So I probably want to go back and read the fine lines. But, Thomas, maybe I could call upon you on that. I mean, what is your opinion of accuracy and whether a revisit of the GDPR is necessary? If I could call on you, I'd really like your insight on that.

STEPHANIE PERRIN: Do I get to respond, Michael, before—

MICHAEL PALAGE: Please. Yeah, please do. I'm sorry. Sorry.

STEPHANIE PERRIN: Let me give you one tiny example. Identity accuracy, besides being a rather difficult term, it is not a requirement for registering a domain name. The fundamental principle of GDPR is data limitation. And I would humbly suggest that you don't need identity accuracy to register a domain name. This gets us almost immediately to the debate over harms on the Internet and whether ICANN has an accountability to manage what is being done with a website once a domain name is registered. I think there's a bright line there, a very bright line. So you could in fact register as Mickey Mouse. And as long as you were contactable and you paid your bills, that ought to be sufficient, in my humble view, because contactability is something that we can recognize as a requirement. Anyway, over to Thomas. He's the lawyer. I'm not.

THOMAS RICKERT: Stephanie, you made great points. I think that my response is comparable to that. There's certainly an academic debate about what accuracy means in legal literature. I think that when it comes to registration data, the main requirement for contracted parties in terms of accuracy is to make sure that they accurately process the data as it is input by the registrants or by the account holder because the primary purpose of the GDPR is to make sure that the customer's data, let's say it's bank data or insurance data, is protected from alteration data loss and otherwise by the entity that is collecting and further processing the data.

So if you want to check accuracy above and beyond that to do validation of the data or do verification, whether the person is actually the person that it claims to be, that would require additional processes and then you would need to check the legitimacy of these processes, whether you have a legal basis for that. Sometimes that involves third party that you need to check the data against public registrars or nonpublic registrars. Those would be additional data processing and we would need to check carefully what that would entail and whether that could be a violation of the privacy by design principle, which requires you to do the least processing possible in order to achieve the contractual purpose. And that, in this case, is to register and maintain a domain registration. For that, I think that the full scope of what some think accuracy will entail is likely not required.

MICHAEL PALAGE: Steve Crocker, you have the floor.

STEVE CROCKER: Thank you. I took me a second to come off of mute there. The point that Stephanie has emphasized—and I see it's emphasized in the chat—I want to disagree with. I don't think that there is an absolute bar against a higher level of certainty about the identity of the person. I don't think GDPR and I don't think any other policy scheme precludes that. That is the current decision that has been made. It's perfectly rational decision that you don't need to know who the person is, just that they be contacted. But it is also a perfectly rational position to say no. There are good policy reasons for wanting to know with a higher degree of certainty who the registrant is, not only whether or not they'll respond to e-mail, but who in fact they are, because there may be a need for legal action against them for misuse of the domain name or whatever.

So trying to draw a very firm line and saying that data minimization or whatever precludes higher levels of knowledge about who the registrant is I think is wrong. That's a policy decision needs to be made in a policy discussion, not in a definitional discussion. The definitions must include the options for assigning different levels of certainty. And I'm avoiding the use of the word accuracy, but I'm talking about this hierarchy of how much you know about the validity, if you will, of the information related to the identity of the person. Thank you.

MICHAEL PALAGE: Roger, you have the floor.

ROGER CARNEY:	Thanks, Michael. Thanks, Steve, and Thomas. I think you've all said the same thing. I think Thomas said, basically, GDPR sets a level and it's not that you can't go above.
MICHAEL PALAGE:	Is that it, Roger?
ROGER CARNEY:	Sorry?
MICHAEL PALAGE:	We lost you. We lost you there for a second. So if you could perhaps maybe restart to get you back. Thanks.
ROGER CARNEY:	You bet. Thanks, Michael. Sorry about that. I was just saying I think Steve and Thomas were saying the same thing. The level of accuracy that GDPR sets is the baseline, and you just have to have logical reasons for that extra step if you're going to increase that level of accuracy. So I don't think that Steve and Thomas disagree there.
	One thing I was going to ask Thomas, though, is GDPR sets a specific level, and it's fairly straightforward it seems like to everyone, you just have to accurately capture what's given. But I think something that even this working group wasn't assigned to do was look at today's current requirements in contract actually already are above that level. And is their purpose for that? Because we already are, to me, above what GDPR requires.

Again, I don't think this group was even tasked with looking at that. We were just tasked with what are we doing today, and what do we want to do tomorrow, and how do we get there? To me, it's interesting that we are above GDPR today, and do we really even have that purpose to be that high above it already? So just something maybe Thomas can think about. Thanks.

MICHAEL PALAGE: Scott?

SCOTT AUSTIN: Okay. I've listened for quite a while and what I thought I was going to be the first speaker, which I'm really glad I wasn't given all of the various weighing in. I first want to thank Alan for being courageous enough, for starting that discussion and alerting me the fact that I was really going to be wading into a smack down by the registrars that, hey, this is what's written, this is our contract, and that essentially, we've gone way too far in spending quite a bit of time, hours, if not months, in terms of arriving, and how do we deal with a very important point that's confronting all of us as rights holders anyway. That is, there appears to be a platform that is global, that permits anyone to be anyone else without any preventive measures taken. And by that I'm saying as if we're taking a blind's eye to fraudulent registration. There's no preventive. That's what I think we were trying to grapple with.

The other thing that we were grappling with in the IPC, Lori and I who drafted this, we thought that we were being encouraged to propose whether it's a dream sheet, a wish list, or whatever, what

we think is necessary to protect folks. Because after hearing this whole litany of we're going beyond, we're doing more than GDPR requires, all of that sounds wonderful and rosy. But we're also sitting here with a platform that clearly allows fraud but doesn't tell the user that it does. It's taken me this long to get to Stephanie's eye-opening comment that "No, identity is not it. That's not what's required. Stop it."

Steve has gone a long way to, I think, bring us into the realization that there is a philosophy that includes much higher levels. Why should truth be a higher level? Why should accuracy not inherently include truth as a measurement? And don't tell the public globally that this is accurate data when you're not at the same time disclaiming it and saying, "It's not WHOIS, it's whoever you are," and that's the problem that I have with the status as it is now. If the contracting parties have agreed, this is what we bargained for, then that's it. But I still think we need a disclaimer to users that WHOIS is not the person, it's open to fraud. Thank you.

MICHAEL PALAGE: Volker?

VOLKER GREIMANN: Thank you.

MICHAEL PALAGE: Maybe your little one can bring a little sanity to our discussion here today. We've gone down—

VOLKER GREIMANN: He was just complaining that his older brother was sick again, so I need to comfort him for a while. But that's okay. I just wanted to remind everyone that accuracy in and of itself is finally and ultimately a registrant obligation that we just have to enforce. It's not an obligation for the registrar to ensure data accuracy from day one. In case we find inaccuracy, we have to act upon it, because then our registration agreements are violated. And that's a requirement but we do not have to ensure that the data is accurate from day one. That's the actual obligation of the registrant. From that, it follows, of course, that nobody is saying that the data that the registrant provides is accurate other than the registrant that provides the data. Because we have to rely on the registrants providing correct data because we have to rely on the registrants to comply with our agreements. It's as simple as that. Thank you.

MICHAEL PALAGE: Thank you, Volker. Roger, you have the floor. Scott, is that an old hand? Roger, you have the floor.

ROGER CARNEY: Thanks, Michael. Maybe this is just a question you can ponder, Michael. Again, I think what Scott brought up—and I think Alan started it—is the purpose of this question here. Scott just suggested that it was, how do we make this system perfect for the future? We were talking about how it is today and are we accurately describing the baseline today so that we know if there

are gaps to the future? I mean, we do know but we have to document what those gaps are going to the future. To me, this question was meant to document the facts of today, not where we want to be tomorrow. Again, Michael, maybe that's not what you thought when you put this together, but that seems to me how that was.

I think, again, I'm going to throw this out, and people can think about it. To me, accuracy doesn't mean a whole lot until you get the purpose. I think Steve said it already. I mentioned it, actually, last time as well. The purpose that we've all been going on is contactability. This data is used to contact that person. Again, there was different contact so it had different reasons, but it was to contact the person. And now I think people are suggesting—right or wrong, not that I care, I'm just trying to find the gap—it's not just contactability but it's contactability and at least a level of identity. So I think that's where it's changing.

If you use accuracy today that is geared toward contactability, you can say that it's pretty accurate. We can contact—I don't know, Michael, it's 90 some percent, whatever, they say is contactability. But if you're saying you're expanding the purpose to include some level of identity, then I can say you can reasonably argue that today's accuracy does not work. So that would need to change. But again, I think that the purpose is the problem here and it's the difference that people keep talking past. Today the purpose of the data is contactability, and arguably, it's very accurate because we can contact more than 97% of the people. But if you change that purpose, then that accuracy doesn't do the same effect. Again, just my thoughts. Thanks.

MICHAEL PALAGE: I do want to comment on those two themes that you were talking about, contactability and identity. With regard to contactability, I think I breezed this on the e-mail list yesterday. Contactability right now under my interpretation of the 2013 contractual obligations is it is a point in time. I think I said this yesterday. I get my annual renewal notices from GoDaddy. Most of the times, I get them, sometimes I'll find them in the spam box, but I look at it, I go, "Nothing has changed, same address, same phone number, same e-mail." I generally do not open up that e-mail from GoDaddy because I know nothing has changed. I think I proposed to the mailing list, everybody would agree that that's a good thing.

The problem or the challenge is what happens when a bad actor uses a disposable e-mail address that is verified once and is then thrown away or never used. Therein lies the problem of how saying that data is accurate, because if that e-mail never bounces, you could send it for the next 20 years. And as long as you never get a bounce under your operational definition of the 2013 RAA, that's accurate data. That is what I think is a problem for the BC, IPC, GAC. At least that's what I'm hearing. And then to the point of contactability, the fact that it was a disposable e-mail or even perhaps disposable burner phones where I verified it once and then have no intention of ever responding again, does that really mean contactability?

That is what I struggle with when we try to take these very stringent definitions because there's the letter and then there's the SPIRT. Do the registrars comply with the letter of the 2013 RAA? Yes, they do. Do I think they comply with the SPIRT? 90%, yes.

But that 10%, that's where I think there's an issue. Now getting to the point of I want to respond to the point of identity and Volker just saying it's only the job to take what is given and accurately reflect that.

To me, I've pushed back on that historically over a number of the years. In my 20 plus years within the industry, there are a number of times that I have had to deal in the US with OFAC, the Office of Foreign Asset Control. And guess what? They do care who you are doing business with and who you are taking money from. So merely just taking the data and reflecting it, that changes. Also, in light of current geopolitical events, all of a sudden, there's a growing interest. I believe it was yesterday, the EU Council passed regulations that potentially will be calling into question certain domain name assets owned by certain entities. So it's not just merely it was Mickey Mouse. We put in Mickey Mouse and the Mickey Mouse e-mail worked one time. We're good. That to me, while that may comply with ICANN's letter of the contract, that doesn't meet the spirit of what I think the rest of the world is looking for us as an industry to potentially address. Again, these are my personal viewpoints of how I'm trying to sit there and distill and articulate this. Outside chair remit again. Alan, you have the floor.

ALAN GREENBERG: Thank you. Someone pointed out I started this discussion. Maybe I'm going to try to end it because we're an hour and 20 minutes into this call already and we haven't done anything effectively except go in circles. I think there's a number of components and we need to address them separately. We need clarity on what is

the current requirement. Saying this is a strict definition of accuracy is not the same as saying this is the current requirement so we need clarity on that. And yes, ICANN Org did add some if, buts, and ands to it which I think has to be factored in to that current definition of clarity.

The second thing is do we believe that we either need to be able to assess and how do we assess whether this implementation is being met? Are registrars actually doing what they are supposed to do, which was the purpose of the ARS? The next level, which is a completely separate level, is what do we believe we should be doing going forward, or I guess, for this group, what are the options that need to be considered so that the GNSO Council can decide if we need a policy process or not? And if we don't separate those issues, we are never going to come to closure. Thank you.

MICHAEL PALAGE: Volker, trust me, if you want to see me arguing—I'm going to respectfully disagree with you on that. But there we go. You have the floor, we can have the discussion.

VOLKER GREIMANN: Sorry. I think that was an old hand.

MICHAEL PALAGE: Okay. All right. Here's what we're going to do—Scott, go ahead.

SCOTT AUSTIN:	Well, there's a couple of things that have come up since I last spoke that I really think needs to be touched on. Well, Stephanie's comment that ID accuracy would promote crime, I totally disagree with. I have to say that my local DMV does an identity check before somebody gets a license to drive, Department of Motor Vehicles. And that identity check, I'm very thankful it exists and I don't think it promotes crime. I think it keeps bad drivers off the street or people who have a history that identifies who they are. At least you know who's behind the wheel or who hit you.

The problem with the way we have the situation right now and that's what we tried to address in the IPC and that was based on that material that was put in there by ICANN Org, which we felt was a recognition. As was recognized in the early documents, the memos, the resources that Rick had brought out in 2000 and I think in 2005, clearly dealt with identity validation. So at that point, that was an important aspect of things. I don't know where that got lost along the way. But I would say that since 2013, if these are the contractual requirements, now that we've had that material highlighted, the fact is that everything's evolved since 2013. The technologies evolved of the Internet, the criminals and the cyber squatters have evolved in terms of their learning curve and how to get around what little protections there are, or it's become more difficult to find. All of those things evolved. So I think that there's a need for this policy to evolve to somehow deal with identity or create some kind of preventive aspect to keep people from filing fraudulent registration data with nary care in the world that they don't have to do that. It's easy to say, "Yes, they require accurate registration data." But where's the stick? Where's the sense that they could be suddenly audited or never be permitted to register a

domain name again? There's nothing in there that prohibits or that makes it unattractive to submit fraudulent registration data. I think that that's extremely important.

MICHAEL PALAGE: Roger?

ROGER CARNEY: Thanks, Michael. Again, I think I want to agree with what Alan was trying to say. I think, actually, what he even started this whole conversation on, and I think what I tried to get to last time, and maybe, Michael, you can make this statement here, this question clear as to what you're intending. I think Scott's points are valid but those are things I think that should be brought up and discussed later and not here. And I think that that was what Alan started this whole discussion about, is he would have answered this differently if he understood the question as it was intended.

MICHAEL PALAGE: We've got a little bit of background.

ROGER CARNEY: In this last hour, people can—

MICHAEL PALAGE: You have the floor.

ROGER CARNEY: Sorry. My Internet just went crazy there. Again, I think it just gets to the intent here, Michael. What's the intent of this question? And I think this is what Alan's question and Scott's question has been, is what's the intent, because they think that they would have answered it differently. So if we can get to the intent of this question, then I think we can move on and do things. Thanks.

MICHAEL PALAGE: I think we're just going to call this week's meeting to a close. I will go back and listen to this and try to break things down into bite-sized pieces. I do think there was some constructive dialogue here. I don't know if we actually moved the ball forward or whether we went in circles. My job as chair is to try to regroup and get us pointed in a forward direction. With that, Alan, you have the last word before we draw the meeting to a close.

ALAN GREENBERG: Thank you. We're in the interesting position that we're ending with Roger and I who are supposed to be on "opposite sides" completely agreeing with each other. I believe the wording of this whole set of questions was poor. I believe we can make use of the results going forward. As we go forward, I think if each of the people will clarify what their answer would have been so we don't debate the parts that were not applicable, we can go forward and get something out of this. But I think we're going to take some understanding on the fact that as we look at these answers, we understand that the question, certainly from my point of view, was worded a little bit incorrectly to elicit the answers we want. Let's try

to not waste all of our time completely, that we put into these answers but take them with a grain of salt. Thank you.

MICHAEL PALAGE: You have the last word. Terri, you can stop the recording. I look forward to seeing everyone next week.

TERRI AGNEW: Thank you everyone. Once again the meeting has been adjourned. I will stop the recording and disconnect all remaining lines. Stay well.

[END OF TRANSCRIPTION]