

**ICANN  
Transcription  
EPDP - Data Elements Workbook  
Tuesday, 05 February 2019 at 17:30 UTC**

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Terri Agnew: Thank you. Good morning, good afternoon and good evening and welcome to the EPDP Small - pardon me, let me start again. And welcome to the EPDP Data Elements Workbook taking place on Tuesday the 5th of February 2019 at 17:30 UTC.

In the interest of time we'll do no roll call. Attendance will be taken by the Adobe Connect. If you're only on the telephone bridge, could you please be known now? (Dan), it appears your Adobe Connect logged in as audio only but we see you on here as well so we'll take into account that you may at times just be on audio only.

Seeing or hearing no one further, I would like to remind all to please state your name before speaking for recording purpose and to please keep your phones and microphones on mute when not speaking to avoid any background noise. With this I'll turn it back over to Berry Cobb. Please begin.

Berry Cobb: Thank you, Terri. Berry Cobb for the record. And can you give me an audio check? Am I'm coming in clear?

Terri Agnew: Great. Your audio is wonderful. Thank you for checking.

Berry Cobb: Great. Thank you. So for today's meeting we're going to start off with a quick check of where we're at to date in terms of applying some of our new logic changes to the workbooks and then hopefully we have agreed on that sanity check.

Then I'd like to run us through very quickly on a couple of sidebar comments I've highlighted in purposes one through three, and then we'll move down into purposes four through seven, and hopefully we'll get through those. Then lastly we'll talk about the consolidated data elements table and take a look at that. And then hopefully we'll conclude about how we're going to document the lawful basis for each of the processing activities there.

So for the sanity check part of the agenda item, you know, just a brief recap to how we got here. After the close of our meeting last Thursday I applied more of the changes that we had discussed to purposes one through three, which includes 1A and 1B. And then secondarily I think at the close of - at the end of Saturday, I applied the same style types of changes to the remaining workbooks to bring them into somewhat consistency and how we had applied changes to the first three workbooks -- or maybe I sent that Friday.

And then Saturday then I manually imported from the data elements tables by purpose into a spreadsheet so that we can view those from a consolidated perspective and instead of looking at them individually by purpose, we can see how they're stacked together, looking at it by - from a processing activity perspective and, in some cases, by role. So we'll take a look at that as well.

So before I move into the first agenda item which is really to kind of talk through some of the purposes, I'd like to hear from everybody as to what is in front of us right now. You know, first is the logic a little bit more clearer or a little bit more clear in terms of how the processing activities are stacked against each other? And then secondarily the actual data elements tables themselves and the new designations that we're using, do those seem to make more sense, especially now that we're delineating the use of optional?

So I'd just like to hear some general feedback that based on what you reviewed is there a better degree of comfort in how we're documenting these and if not then, you know, what subtle changes do we need to make so that I can apply those across each of the workbooks and once we get to that then we can move on to an individual review? So I'll open it the queue now.

Alan, then Marc, and then Stephanie, please.

Alan Woods: Yes I'll jump in straightaway. Yes, so from my reading of it, already it's much clearer. So in my mind it's clearer and I'm thankful of that. Obviously I look forward going forward and (unintelligible) the elements as well because I'm like I'm not necessarily on board with some of them, in the sense of the actual data elements and the optional for registrar and optional for registrant because some of them haven't yet been somewhat decided on the plenary, but that's just me.

But generally speaking, this seems so much more clearer to me and at least in my mind I think it is much more user friendly, so thank you. I'm happier definitely.

Berry Cobb: Great. Thank you. Marc?

Marc Anderson: Thanks, Berry. I guess, you know, I'll just agree with Alan. You know, I think it's, you know, easier to read and parse. You know, I don't agree with some of the things that are in there. You know, I'm looking at some of these and they're, you know, they are different, you know, some of the tabs and some of the things in these are still different from what we discussed and what's necessary. So I guess there's some work to do, but I agree with Alan. It's easier to read and parse.

Berry Cobb: And Stephanie, please. Go ahead.

Stephanie Perrin: Yes. I haven't looked at it yet but I really appreciate the idea of a consolidated view because I don't know about the rest of you guys, I can't remember what we've done with the different things and I need them kind of stacked up together to see how they all fit together because we are making changes. So you have to see it as a (unintelligible) thing. So I look forward to this. I think it'll help me figure it out. We don't want any surprises coming in during that quiet two weeks where some of us raise our hands say this is all, you know, wrong. Thanks.

Berry Cobb: Great. Thank you, Stephanie, and I - while we have two weeks, I think only one of those weeks is quiet, but who's counting? All right. So why don't I go ahead and jump into some of the details? As I went through, as I mentioned, I made a couple of sidebar comments to flag for us to think through some of the logic, so just could use some guidance in regards to finishing these out.

So I'm going to move down to 1A and more specifically at the bottom of the data elements table. I still had some confusion about how we're going to document this in zone IP. And what you'll see in the document now is I still left them as just as our old optional, and so I guess really, Alan, I'm kind of looking to you in terms of how we're classifying the possible use of in zone IPs. You know, is it something that is optional that a registrant would supply or is it optional that the registry would apply, and if it is the registry, should we just make this optional-CP and then what does that look over to the right as well?

Marc, please go ahead and then Alan.

Marc Anderson: I think I jumped in front of Alan. Yes, I think probably optional to - sorry, I think the way - optional, you know, so I think it's - I don't know if we need to know the category of optional, you know. But if you support in zone hosts then it would be required for you to support it but optional for the registrants to provide it, you know, I think is what - I mean ultimately what it needs to say, or ultimately the message we're trying to carry is, you know, if in zone hosts

are supported, then optional to provide and require - and required to support.  
Yes. Got it.

Berry Cobb: Can you say that one more time for the record?

Marc Anderson: If in zone hosts are supported then it's optional to - for the registrant to provide it but required for the registry to support it.

Berry Cobb: Great. Sorry about that. I was just typing up those notes. Alan, please go ahead.

Alan Woods: Thank you. Yes, I'm just going to say, yes, Marc is on the same page as me. I think in my mind I'm actually going to defer to him on the technical aspect of it because I'm not that familiar, but can we be -- what's the word I'm looking for? -- can we deny a registrant to use an in zone name server? So as far as I can see is if we cannot deny an in zone name server then in my mind it would just be optional of the registrant and then our requirement flows from there where we would be required to support that. That makes sense to me but I'm probably confusing matters so I'm going to stop now. So thank you.

Marc Anderson: Alan, I'm - this is Marc. I'll just jump in. I was actually trying to think of that myself. I actually know of TLDs that require - that only allow in zone hosts. So I know of, you know, I know of some TLDs that, you know, where you can only use in zone hosts. I'm trying to think offhand if there's a scenario where you have a TLD that does not allow in zone hosts and, you know, I'm just not sure off the top of my head, so I was trying to leave the language flexible in case there are TLDs that don't allow in zone hosts, but I'm just not sure off the top of my head to be honest.

Berry Cobb: (Dan), please go ahead.

(Dan): Thank you, Berry. Can you guys hear me?

Berry Cobb: Loud and clear.

(Dan): Thanks. I think, and this is one where I'm with Alan. I'm a lawyer, not an engineer. Maybe we want to check. I mean I think maybe Marc might know better or maybe we can get in-house expertise here too but I think the - part of what gets confusing is that the IP address of those name servers is part of the -- I'll get the wording right -- but it's - those are attributes of the name server object and not the domain object so you'd have a domain name and it has name servers associated with it, which is just I think the host names.

And then those host names are going to have fair objects in the registry also which aren't directly tied to the registrant and they're kind of owned and created by the registrar, and then they have IP addresses. And my understanding is the registrant, subject to registry rules about what kind of hosts are allowed, the registrant can pick whatever name servers it wants for its domain, and then the registrar and registry should respect those along as they comply with the policies.

And I think the rule is then that I don't know if it's the on the registry or the registrar to go in and find out what are the IP addresses for those name servers, the registrant might not even know, and then to put those out into (unintelligible).

Berry Cobb: Thank you, (Dan). And it looks like Marc has a response as well. Go ahead.

Marc Anderson: Thanks, Berry. Marc Anderson for the transcript. So I guess with - I'll stay a little on what (Dan) said. So name servers for most registry operators, name servers are standalone objects, meaning you, you know, it's, you know, which is what (Dan) was getting at when he said, you know, you create a name server you know, a registrar with create a name server at the registry and when the registrar creates a name server, it assigns an IP address.

So that linking is done at the registrar - or at the registry level by the registrar, and that's how most TLDs operate but not all, and I'll get to that in a second. But I think the first point I want to say is, you know, for most registries they're separate objects and in fact there's a separate lookup. You know, in legacy Whois there's a domain lookup, a name server lookup and a registrar lookup. There's three types of lookups.

And the name server lookup is a separate query and - but it also - I mean it's the basic functionality that DNS is providing, basically providing a lookup of a name to an IP address. And so that's available via, you know, the existing Whois functionality where you can do that. But that was a long explanation to get to the point that not all registries operate that way.

In fact EPP supports having name servers and domains as separate standalone entities, which is how most TLDs operate, but it also supports having name servers as a domain attribute. And that's, you know, that is allowed under EPP and it is, you know, it is supported by our contracts. And I do know of some new gTLD operators that do that as separate, or not as separate but as - not as separate entities but as domain attributes.

So, you know, I think, you know, that was maybe a lot more excruciating detail than maybe anybody needed or wanted but maybe a long way of saying I think, you know, we need to make sure we're flexible enough in our writing to realize that there's some differences in how registries have implemented this and make sure the language allows for those other use cases.

Berry Cobb: Thank you, Marc. It sounds like this is an easy candidate for a TED topic. Joking. So I think what I'm hearing is that in terms of trying to document this in our table here, what I'm proposing that is, you know, under the transmission column, which is also known as the registry collection, that I'll mark it as optional-CP for contracted party and I'll put the following footnote that I placed into the chat and we'll keep that there.

And then of course under disclosure that would flip to required based in essence on the text of the footnote that, you know, if the registrant does supply it then of course it would have to be disclosed out into the DNS. Any objections to that? I see a couple of agreements. Happy to reword the footnote if that doesn't sound right. Okay. Hearing and seeing none. So let me just make sure I've got this updated. Delete the comment. All right, moving on.

Yes, Stephanie, published. Sorry. Okay, 1B also had I think one question here and this is in our processing activities section. So again the processing - or the purpose here is about establishing the rights of the RNH. And based on what we've been trying to build out through the workbooks is making a better distinction in the realm of the disclosure processing activity of denoting who it's being disclosed to or published.

And so I was a little bit confused about this specific purpose of establishing the rights of the RNH. Is data actually ever disclosed in that and if so, you know, who should we label here in this processing activity as to who that data would be disclosed to? And my comment out to the right is very much that I believe Alan Woods had originally suggested in the 1B document that he sent that this be changed from disclosure to publication. So if I can just get some clarity there then.

Alan, please go ahead.

Alan Woods: Thanks. So with the publication one, yes, that was just the product of an addled mind I think. Yes, no it shouldn't be publication. Based on what we're talking about disclosure is closer. So this one is - it's a difficult one because I still think there are in order to establish the rights of the registered name holder, we can easily say transfer of the data and again because of the qualification that we have in this particular purpose and that is subject to the terms and conditions qualifier at the beginning, and it's almost on the



limitation of the benefits and the rights of the registered name holder and subject to those terms and conditions.

So in my mind the word disclosure is envisaged. I think we probably need to be clearer that because a lot of this, it would make more sense to me that disclosure is in very specific cases that we might be required to disclose this data in circumstances such as perhaps law enforcement or - being the obvious one.

But also another disclosure that springs to mind straightaway is if ever we were sued over an action that we took, applying terms and conditions, and that may be in data protection or be in another way that we would probably need to disclose in those instances which are as per law and probably worth tweaking it slightly, but in my mind it seems more so on the edge of justifiable to leave in disclosure for these purposes as opposed to removing it, if that makes sense to people. I don't know.

Berry Cobb: Thank you, Alan. And before I turn it over to (Alex), so what I put in the chat, so just to kind of complete this statement, disclosure of registration data to third parties, will that be sufficient?

Alan Woods: I - yes, I suppose that is. No. I mean it - yes, that's a tough one. I don't think it's necessary. Disclosure of registration data is disclosure of the controller. Yes. No, I would just leave it at disclosure and per lawful purposes in the sense of again this is -- I need to be very clear as well -- this is disclosure vis-à-vis the registrant -- not the registrant -- vis-à-vis the registry or the registrar in whatever instance it is. It is for them to protect themselves, not for anything else. So they may need to disclose in order to protect them as controller.

Berry Cobb: Okay. Understood. And so what's on the table is disclosure of registration data for lawful purposes. (Alex), please go ahead.

(Alex): Thanks, Berry. It's (Alex). Yes, I think that was helpful, Alan. Thanks. This is, you know, my question was disclosure to who and it sounds like it's just to registrars and registries in this case, which I guess is fine. I was also going to ask for if there were any kind of real-world use cases that describe when this disclosure would happen, and I think the one, the law - sorry, the - someone getting sued, a registry or registrar getting sued is a good one. It kind of helps zero in as to exactly why type of disclosure we're talking about and why.

I'm just wondering if we may need to collect, or at least document, that one and perhaps think about a few more to make it clearer to others outside of our small team here as to exactly what this disclosure or this specific purpose is all about. Thanks.

Berry Cobb: Great. Thank you, (Alex). And, Alan, did you want to come back on that or old hand? All right. Good. Thank you.

All right, let's move right along then. What I want to take you back for just real quick is the bottom of what is purpose 1A and paint a mental image of the DNS sec. What I have listed there is optional for the registered name holder. The logic is if they did enable DNS sec, then of course registrars and registries would be required to populate that data in an RDS and of course eventually disclose it should that ever happen.

However, that is somewhat not congruent to what was listed at the end of 1B and I was just curious if we need to make sure that these two sync appropriately. So it would be, again, should it be optional for the registered name holder and then under transmission and disclosure would be designated as required?

All right, great. Thank you, Marc. So I'll just - I'll reconcile 1B with what we have up in 1A. I just wanted to confirm that. And give me one second. I'm making these changes on the fly. Okay, this should move us down into purpose two next.

And let me find my - get my bearings real quick. Hold on, please. So, yes. All right. What I wanted to ask for purpose two is the fourth processing activity about retention of registration data. And this is listed as to be determined in how we have it documented under the processing activities. And noting how we have the retention documented under purpose 1A and 1B, I was curious as it relates to purpose two, which again is the enablement of responses to lawful data disclosures, does retention need to be listed here or would it - if I'm understanding things correctly, it would actually mimic the retention as listed under purpose 1A and 1B.

Marc, please go ahead.

Marc Anderson: Sorry. I was actually just - I wasn't sure where we were but I lowered my hand because I think you were looking at - sorry, we're looking at retention for purpose two?

Berry Cobb: Correct. Right now - well even since the initial report, this is - this cell for this processing activity has always been blank and so I was looking for a little bit of guidance about what these words will be saying as it relates to retention for this specific purpose.

Marc Anderson: Okay. Then I guess my two cents is we wouldn't have any retention for this purpose, right? So we're not collecting data for this purpose or processing data for this purpose. We shouldn't be retaining it for this purpose, right? This purpose, you know, this purpose is about providing access to data, you know, collected, processed and retained for other purposes. So I think it would be, you know, we want each of these purposes to stand alone, right, but I think it would be misleading if we just mirrored what's in purpose one.

You know, the reason why it would be retained is captured under purpose one. Putting a retention here implies that we're retaining the data for this

purpose, which I think is inaccurate and maybe misleading. So my two cents. Maybe Alan can clear things up.

Berry Cobb: Thank you, Marc. I think that's where I was heading but, Alan, please.

Alan Woods: Thank you. Yes. I'm going to vary my usual statement on this but it's again, it's showing the other - another difficulty as to why purpose two is I would say problematic as a purpose, mainly because if - we can set a retention period for this but remember it has specifically to do with the purpose. The minimum data set is for the purpose and we cannot draw from other purposes as to why we collect the data for this because that's not what a purpose is.

So with that being said, we could set a retention period for this as a purpose but that retention period would be specifically per the law tells us to retain for the period because this is not a defined purpose by any stretch of the imagination.

However, if the law said, hey, you as the registry or a registrar or ICANN, you must retain Whois data specifically for X amount of time just in case somebody needs to do, well then that would be our legal reasoning and basis for that. So in the absence of an actual law that directs a specific individual contracted party, there is no retention period associated with it. So that's my two cents.

Berry Cobb: Thank you, Alan. I added a placeholder text to populate this cell within the workbook and just - and I think I captured what we're talking about here. Note that the rationale for me bringing this up was more a logic question about whether this processing activity was required or not and not so much about the content of what we're putting in the lawful basis cell. That'll kind of be our last steps. So now we've got something a little bit to chew on and we can come back and make more appropriate edits to these.

To (Sarah)'s question, so from two meetings ago, it was suggested that while there is a retention processing activity in our table of processing activities, we were not carrying it down to the actual data elements table and creating a specific column for it because it was redundant and confusing, but mostly redundant in that in whatever data elements were going to be processed across collection, transmission or disclosure would be those data elements that would be retained or that there would be a retention purpose - retention duration set for that specific purpose. So that's why you'll see those removed across the entire document.

All right? Let's move on now into purpose three, and I think there's really only one logic question that I had here. Actually I - so in the processing activity table we're not going to go through it in detail today but as we noted on the plenary call today about making this distinction of the disclosure versus a publication, publication being a subset of disclosure, and Marc did a good job about advising the plenary about, you know, this minimum public set of registration data.

I don't want to spend time authoring it on the call. This will be homework for us over the next day or so. The first is start thinking about what kind of rationale that would belong under the lawful basis for these two cells, and then further I think it would behoove us to come up with an appropriate term that we're going to call this minimum public set of registration data, if for anything else just consistency.

But I think we should find a term that is easily recognizable that doesn't stray away from the current understanding about, you know, what Whois is today versus what RDAP is tomorrow. And the reason why I say that is not only would we be documenting this in more detail here within the workbook but this would refer back to recommendation eight that also talks about the redaction of certain data elements. And in that area there's a specific mention about a public data, or a public directory of registration data. So what we

document here will be documented in that section of the final report, and that's why important.

Marc and then Alan, please.

Marc Anderson: Thanks, Berry. It's Marc. I'm going to put my vote in for minimum public data set. I think that's the term the next gen RDS group used so, you know, at the risk of stealing or confusing with what they did, that gets my vote here. And I think I had another point but I forget what it is so I'll stop talking and defer to Alan.

Alan Woods: Thanks, Marc. Yes. Sorry, Berry, just to confirm, are we still talking about purpose two here?

Berry Cobb: Negative. We've moved on to purpose three.

Alan Woods: So much better. Thank you. Yes, okay. Yes. Okay. I lost my train of thought because I was (unintelligible) for that. Okay. Yes. Minimum public data set of registration data, yes. I mean this is one of these things that I actually got to within the registries with relation to oh God recommendation insert number here, I can't remember which one, and it gets a bit, strangely enough, complicated because the - if we're talking about for three, yes, minimum public data set, sorry. Yes. No, I just talked myself into a corner. I'm okay with that.

Berry Cobb: Great. Thank you. One other thing that I'd like to bring up, I'm hesitant to bring up, but - and perhaps Stephanie can also chime in on this, so, you know, certainly there has been discussion around, you know, certain data elements that are considered personal information are being redacted. There has been discussion in the working group about how an IP address or a name server or the domain name itself can be considered personal information and/or personally identifiable information.

I'm curious, should we make a statement as it relates to documentation? And I'm not suggesting that this is a possible consensus recommendation, but should we document here in the workbook that at least those three data elements, while - can be considered personal information or publicly identifiable information, that they must be published in their form as to allow for the DNS to work the way it was designed, or something along those lines.

And I say this because it's fairly obvious to us here but down the road if a DPA were reviewing this documentation, it may not always be as clear to non-insiders, so I just thought I would put that out.

Marc, please go ahead.

Marc Anderson: Thanks, Berry. Marc. You know, my two cents on this one has always been, you know, it - when it comes to stuff like this, it's best not to get too wrapped up in whether it's PII or not, because I think somebody can probably make an argument, you know, you can probably argue both sides of that for everything.

So in cases where it's necessary to perform the service and, you know, and Alan's saying that in chat basically, is, you know, publication is absolutely necessary to achieve the fundamental purpose, you know, could a name server, you know, be personally identifiable? Could the IP address without a name server be personally identifiable? You know, I don't care because it's necessary to perform this service.

You know, the only remedy is to not obtain the service. You know, there's no other way to accomplish the activation and allocation of a domain name in the DNS. So, you know, so I think that's, you know, hopefully an emphatic agreement with you, Berry, that, you know, yes, we can all agree this is necessary to perform the service and let's not get pulled into the debate on whether it's PII or not. It's - if it's necessary to perform the service, it's not necessary to have that debate.

Berry Cobb: Great. Thank you, Marc. And I see Alan has dropped his hand as well. All right. Okay. So I think that was it for - oh, no it's not. So what I also wanted to show on purpose three is the next version of the data flow map. And again, I know that these are very high level but what you'll see is an attempt again to document on the data flow map the appropriate processing activity.

So, you know, obviously PA1 is collection from registration data from the registrant to the registrar. PA2 is there some sort of transfer/collection by the registry. Processing activity number three is to enable communications with the registrant. And as I understood from our call on Thursday that, you know, specifically this is either the registry or the registrar that's doing this communication, and so I'm trying to reflect that in this data flow diagram with the red arrows pointing to the registrant.

But then conversely, processing activity four, which is this minimum public data set, you know, where an Internet user can do a query of registration data that that's, you know, reflected down at the bottom. And then of course the processing activity five and six talk about retention. So are there any concerns or consternations about how I've represented that in the data flow map? And we'll come back to data flow maps in general but I did want to just highlight this since we had shifted these things down from purpose two into purpose three.

Marc, please go ahead.

Marc Anderson: Hey, Berry. Can I actually just get a second to confer with my registrar colleague on this? Can we get a quick pause?

Berry Cobb: Sure.

Marc Anderson: Hey, Berry, this is Marc. I'm going to ask (Sarah) to jump in after me to make sure I'm, you know, not saying something I'm not - I'm out of step on here.



But I think what we want to reflect in this purpose three is, you know, is that, you know, this is, you know, the disclosure steps here is, you know, the publication of the minimum public data set, right, the data elements that we're publishing in RDS, whatever flavor that may be. And I don't think it matters whether it's RDAP or Whois. That's just the mechanism. What we're defining is the minimum public data set.

And I think what we want to reflect here though is that, you know, under GDPR we don't want to have data transferred from the registrar to the registry just so it can be published in the public directory. We think that the data that the registry is authoritative for they should publish and the data that the registrar is authoritative for they should publish and that making the registry just a pass through really is problematic under data minimization.

And so I think what we want to make sure is reflected here is that we're not transferring the data from the registry to the registrar for this purpose, if that makes sense. And I'll kick it over to (Sarah) to make sure I've stated all that accurately and correctly.

(Sarah): Thank you. Yes. So I definitely agree with Marc that we do not want to transfer data just so that the registry can publish it. That's not a good plan. Personally I'm feeling a little bit lost just as the purpose statement doesn't - I can't even articulate what I'm lost with but I agree with what Marc just said. Thank you.

Berry Cobb: Thank you, Marc, and thank you, (Sarah). Before I turn it over to (Alex), I think this is probably something that should be discussed in the plenary as well. And, you know, what you said, Marc, is, you know, is reeks of RDAP ultimately because then you're right, whoever - whether it's the registry or the registrar, they are likely going to be considered their own authoritative source for that data.

However, I think an issue with that thought process though is the whole policy around thick Whois in that the concept there of thick Whois is that the registry became the authoritative source, so to speak, at least as I understand. And I agree that certainly thick Whois as we know it today, or knew it yesterday, is probably going to be something completely different tomorrow.

At any rate, I'll stop there. (Alex) and then Marc can come back and respond.

(Alex): Sorry. Thanks, Berry. Yes, you touched upon what I wanted to mention which really is that the elephant in the room here is that we're setting policy that impacts and actually negates this thick Whois policy. You know, Stephanie, I don't disagree that thick Whois may be dead but I don't think we can make a recommendation in this EPDP. That's way out of scope. We've been kind of dancing around this issue for a while.

So, you know, I think this is, you know, these decisions clearly will impact consensus policies that have been set elsewhere and we just need to make sure that, you know, those issues are dealt in the PDPs - well, in the correct spot and not here. Thanks.

Berry Cobb: Thank you, (Alex). And I before I turn it over to you, Marc, I remembered something else I wanted to say, which I think where I may understand your discomfort is -- and you're not necessarily trying - in your statement you're not necessarily trying to negate thick Whois as a policy or not -- you are stating though in terms of this specific purpose, you're not transferring that data or executing that processing activity of transfer as it relates to how the data would be disclosed for this specific purpose.

You would only disclose in terms of what data that you consider yourself the authority with in terms of how you would communicate with the registered name holder as it relates back to this purpose. And if that's correct, then what we - what I would suggest is that processing activity number two, which is really about the transmission of that data from a registrar to registry, that

would be deleted or I should say not required processing activity for this purpose but so that we're trying to test my data flow map here, the processing activity three does show that the registry or the registrar in their own right is reaching out to the registered name holder as it relates this purpose. So hopefully maybe I'm understanding your thought process.

Go ahead, Marc.

Marc Anderson: Thanks. And this is Marc. You know, I agree with, you know, I agree with what you said, you know, your first comment, your second - and your second comment, as well as what (Alex) said. You know, this is kind of the elephant in the room here but, you know, I've not heard - you know, where I will disagree is I've not heard anybody say that this PDP can't change existing policies. In fact I think we've all agreed that there may impacts and we may need to change other policies.

And, you know, it's hard to have a conversation about purpose three here without impacting the thick Whois policy. I mean the thick Whois policy, you know, you said in your initial response that, you know, as part of the thick Whois policy, you know, it identified the registry as authoritative. It required all data be transferred to the registry and that the registry would publish that data in a public Whois directory in a consistent manner. You know, I'm paraphrasing here.

But, you know, all those things are impacted by what we're doing as part of this PDP but none more so than here in purpose three. So, you know, I think (Alex) is right. You know, we're making changes here and we can't sort of tiptoe around the fact that, you know, we're making policy recommendations that impact this previous policy, you know, and we need to sort of, you know, we need to stop tiptoeing around that, you know, and recognize the fact that we're impacting that and just state what we're recommending and where the impacts are.

Berry Cobb: Thank you, Marc. And I'll just highlight, you know, something else, whether the group agrees that a current policy can be changed here or not. I would note though that it is clear that even if remove from purpose three processing activity number two that speaks to the transfer of data from a registrar to a registry that these data elements are being transferred for other purposes.

And you'll see that in the consolidated tables that, you know, if we were to remove this one from I think Page 3 of that PDF that I sent out, you would still see way over on the right that these data elements are still being transferred. We're just trying to be more precise here in that a transfer is not required to meet the intent of this particular purpose itself.

Stephanie, please go ahead.

Stephanie Perrin: Thanks, Berry. And not to beat an already well dead and rotting horse, but one of the reasons to have done a privacy impact assessment at the beginning of this exercise was not so much that the data is all that sensitive as the GDPR says but to help us better understand the ancillary policies that the GNSO Council is responsible for that need to be also changed.

And so for instance we were talking about the PPSAI policy and implementing which will be impacted and certainly thick. As far as I'm concerned, thick was dead as soon as I discovered it existed, and that was back in 2014, because it was already dead under the '95 directive. The reasons for its inception may have been valid when ICANN was first born but they're not really valid outweighing the interest of the individual and the necessity test anymore and I would argue haven't been valid for a number of years.

So, you know, the first question I heard from the DPAs when trying to explain thick to them one time at an RWGDPT meeting was what's the necessity assessed, and that's, you know, you're hard pressed to answer that. So that's going to run through all of these other ancillary policies and I think we owe it

to the GNSO, who to the best of my knowledge (unintelligible) on these issues when we were scoping the terms of reference for this PDP, the EPDP, that - they haven't figured out a game plan yet for addressing all these other policies. You know?

We're limping along with the Whois conflicts with law and it's not clear at all what thing's going to look like. So, you know, I think the least we can do, I would hate to call them recommendations because that opens up another field of battle but we could at least list all of the policies we stumble over and mention the areas where we think there's an impact and provide that as guidance to the GNSO Council. Thanks.

Berry Cobb: Thank you, Stephanie. Before I turn it over to Marc I'll just note that we'll close this topic off in a minute or two and we'll pause for about five minutes for a bio break and then we'll come back to this - or we'll move on to the next.

So again what I - you know, the elephant in the room conversation I guess is not - shan't be had here, even though as important as it is. So again what I'm proposing is that at least to meet the spirit of what Marc and (Sarah) are trying to point out is that at least in terms of this purpose, we don't need to document the transfer itself.

That enabling of communications with the registered name holder will happen based on their own authoritative data so that we're still showing that this potential for communications can happen with the registered name holder but again we'll just remove PA2 and state that the transfer of data is just not required to meet - to fulfill this purpose.

Marc, please go ahead.

Marc Anderson: Thanks, Berry. It's Marc. And that, you know, and doing that for purpose three certainly, you know, addresses my concern for purpose three. Frankly I mean I think, you know, I think my point here is that, you know, we can't

pretend that we haven't already impacted the thick Whois policy. We've essentially agreed to remove the admin contact. We've changed the data that's collected for the tech contact.

You know, we are making new policy recommendations that, you know, that are in complete conflict with the thick Whois policy, you know, not just, you know, we're not just talking about, you know, the thick Whois here, you know, it's the thick, you know, it goes beyond that. And so, you know, that policy is being supplanted by this one, at least in part. And so, you know, if we want to refer it back to the GNSO so that they can reopen that, that's fine. I think we would be much better off just being clear that we're replacing that, but, you know, as you said, that's more a decision for the full plenary and not something to bring up here.

But, you know, as we go through these purposes, you know, we need to be, you know, clear on what the processing activity is and what that, you know, what data needs to be processed to reach that - or to achieve that processing activity, sort of the why that Stephanie just raised and, you know, if we don't have a why it's necessary that we don't need to do it.

Berry Cobb: Thank you, Marc. And I'll just note it as an action item that perhaps we can bring this up Thursday, depending on what the agenda looks like, because, yes, it's definitely a plenary discussion.

Alan, please go ahead.

Alan Woods: Thank you. (Unintelligible)

Berry Cobb: Alan, you're coming in very faint.

Alan Woods: Oh. Okay. I don't know if that will help. Did that help?

Berry Cobb: Much better.

Alan Woods: Okay. Weird. Just computer weird. Okay, sorry. One of the things, I agree. I think if we know that there's going to be an actual impact then there's nothing to stop us from saying, "Hey, we've definitely identified there's going to be an impact here and you should look at that."

What I was going to say, I'm going to stray into weird positions (unintelligible) the transfer for three probably still is necessary but then it just occurred to me that under purpose B we could easily as a registry and as a controller have a secondary purpose that is related to the implication - or the transfer conditions just in contacting the registrant using that data for that purpose. So yes, I'm not even going to complicate the matter. I think we're fine there. So I agree with Stephanie and Marc, kind of a hybrid of both.

Berry Cobb: Great. And, you know, I think (Sarah) put into the chat that, you know, enabling will happen based on the info already held by the contracted party. And I'll - when we get to the consolidated workbooks I'll point it out to you what that would like for this.

So let's take a three- or four-minute personal break and we'll come back and we'll move on to the next item. Thank you.

And for those that can hear, if you can give me a green checkmark when you return and we'll get started. All right, great. Terri, you want to kick off the recording, please?

Great. Thank you everyone. All right so next topic is purposes 4A and 4B and they're both - have a logic issue that I just want to confirm with the group. And basically as we had, you know, started at the beginning, our general principle was that each of these purposes needed to be viewed in isolation as though no other purpose existed. However, when it comes to escrow for registrars or escrow/EBERO for registries, we had also made a decision earlier in our deliberations that these two purposes aren't designed for actually collecting

the data. It's going to be data collected in the aggregate from other purposes by which what data would be marked for escrow or escrowed, at least in the small subset of registration data.

And so before I open up the queue, what I have in the Adobe Connect room now is for registrars and specifically what we have in the processing activity two column, what would be transmission, is only marked with those data elements as it's listed in the 2013 RAA for registrar escrow.

Now it's a little bit more complicated for registries in that not only do they have their own data that would be generated but across the various purposes there are some data elements that are transferred from the registrar to the registry as well. So their scope of data that would be escrowed is a little bit larger and not to mention that when trying to actually read through the registry escrow agreement it's practically impossible for anybody that's not super technical to figure out exactly what was being listed as required for escrow.

And so ultimately what we did in the initial report was to take these consolidated tables that, you know, that I'm referring to and that I sent out to us earlier and was to basically select all of those data elements that were transferred or collected by the registry that would essentially populate processing activity two to capture that entire data set and that in fact we would leave processing activity one, collection, blank because, as I noted earlier, there really isn't a need for the collection processing activity because in the aggregate it's really ultimately about whatever data is collected across the other purposes.

So I just wanted to test this logic conundrum for purpose 4A and 4B and see if it's okay to continue as we have documented or, conversely, then we need to figure out how we're going to define what data elements are collected.

Alan and then Marc, please.



Alan Woods: Thanks, Berry. Can you hear me okay this time?

Berry Cobb: A little faint but go ahead.

Alan Woods: Okay. Right. So don't hate me, but no. Again, because this is a purpose, we must document the entire life of that data process for that purpose. So even though it's collected for other reasons, it is also collected for this reason. So even though it's the exact same, no, by rights -- and this is kind of an ICANN issue, to be perfectly honest because the minimum data set should only be that which is necessary for the registration and recovery of a domain name.

So there's a lot of data elements potentially on both the registry and the registrar escrow requirement that are absolutely surplus to requirements but, generally speaking, those data elements are still collected for the purposes of escrow as well as for the purpose of the registration of the domain, as well as et cetera, et cetera, the other purposes.

So we will still have to say, no, we collect from the very beginning this for escrowing the data as well. And of all the ones, this is probably one that's very, very vitally noted for collection because me the registry who has escrow requirements, I must insist that the registrar specifically are passing that one to the registrant and giving them actual notice that I will be transferring their data to a third person for the purposes of escrow, and that must be done at the point of collection, which is the same point of collection as most of the data.

So no is the answer. We need to notify - we need to, not notify, fill in the collection aspects of this. And I know that's difficult because exactly as you pointed out, it's not an easy thing to figure out to discern what is necessary, but perhaps this is again another thing that needs to be punted on to ICANN or to the community and saying, "Hey, we really need to sort out what escrow is now absolutely necessary for the purposes that are stated for escrow in

order to achieve the point of escrow" and that is the recovery of the zone in the event of a failure or indeed in the triple lock failure across the registries and the registrars.

Where it becomes even more difficult is this whole kind of collection from the registry point of view of course because technically we get into that whole thing of collection by the registrars, not collection by the registry. It's transferred by the registrar, which is collection by the registry, and therefore it'll be two different sets of collection for the registrar. That is the escrow collection for the registrar's purposes only and then the escrow collection for the registry's purposes. So that just gets just a little bit crazy, so apologies.

Berry Cobb: Great. Thank you, Alan. And I think (Sarah) is in agreement. She had lowered her hand. Before I go to Marc, and hopefully by my intervention here he can lower his hand, so what I'm proposing which is really what happened here with the 4B, bravo, for registries, how I came up with the list that is currently listed as required is from this tool.

And I wanted to save it in all of its grandeur but essentially looking at the consolidated table and looking far to the right where there's a collection logic, anywhere that it's green or yellow, yellow meaning that there's some sort of optional to it, it was hard to decipher it amongst the three different optional options that we have, but ultimately if I were to filter this list out and it only contained the green or yellow indications, that would give me all of the data elements that are collected by a registrar that would then actually be populated into 4A PA1, the processing activity for registrars.

And the conversely the same thing would happen for registries, and now you see that how it changes in that the registries is slightly a little bit more complex because it no longer matters if there's an optional collection at the registrar. If there is a data element that's populated then that becomes - and it's transferred to the registry, then that becomes a required element for the registry.

But in essence, the same would apply for 4B in that when I filter out this list, I can then identify all of those specific data elements that were - that are collected by the registry and I would populate those into the first column for PA1 under 4B.

Marc, please go ahead.

Marc Anderson: Thanks, Berry. It's Marc. I'm pausing because I'm trying to sort of digest what all you just said, and I'm not entirely sure I followed all of it and maybe I just have to look at this a little bit offline. You know, I was also listening to what Alan said. I mean I was - I raised my hand because I was going to take a slightly different tact to sort of making the same point on the registry escrow.

I spent a bit of time, you know, when we first looked through escrow following L.A., I spend a decent amount of time looking at the specification and, you know, I think I, you know, reported back to the group that were over 100 fields on there, you know. And I see Stephanie's got her hand up. I mean this specification, you know, sort of flies in the face of, you know, privacy by design and data minimization.

You know, I think that escrow specification was written by, you know, was probably devised and come up with by engineers who were looking at, you know, all the things you could do and not necessarily considering what you needed to do and what was necessary from a GDPR and data minimization standpoint. So, you know, I think, you know, when DPAs were talking about the need for privacy by design, I think maybe they might have had this escrow specification in mind when they were writing that.

So I, you know, I think that needs to factor into our recommendations. You know, I think we can't be collecting and escrowing data because it's in an escrow specification. I think we need to make sure we clearly define GDPR-compliant purpose for why that data element is processed. Otherwise, you

know, we shouldn't be collecting it and, you know, I think we're - I think that's where our recommendations need to end up along with this purpose.

Berry Cobb: Thank you, Marc. Stephanie, go ahead, please.

Stephanie Perrin: Stephanie Perrin for the record. Not to beat that rotting horse again, but I -- and correct me if I'm wrong, obviously I'm not the technical person here -- but I regard this as clearing simply ICANN's purpose as steward of the DNS as a responsibility and they are accountable for making sure that in the event of market failure, the registrant and the domain names are protected and reinstated with another registrar or registry.

Therefore I don't - I see this as clear and simple. ICANN's the controller, the data processor is under the control of ICANN, whoever that data processor is, whoever the escrow EBERO agent is, and if it isn't now under contract it should be, right? And the registrars are more or less out of the loop except that this purpose is added to all the other purposes which they have, but -- for gathering the data that is -- but it's a very, very thin set of data.

I mean I agree with Marc. That's a ridiculous amount of data to keep for escrow purposes. It's more like a security wonk's dream, not anybody sensible. You don't surely need all that to reinstate a domain. So you have to winnow that down to the very tiny data set that is required to enable a new provider, registrar or registry, to reconstitute and you're done, right?

So on this one I think it's essential that we clarify who's the controller and who the processors are and what the roll of the escrow EBERO providers are and what kind of agreement you can sort with them under the GDR controller and processor agreements. Thanks.

Berry Cobb: Thank you, Stephanie. And I'll note that, you know, this does tie back to I can't remember the recommendation numbers but having to do with roles and responsibilities as well as the escrow recommendation getting into proper

data processing arrangements/agreements. So, you know, those are connected.

And before I turn it over to (Alex), what I'll do for the next version of the workbooks, and I know that I probably failed miserably in trying to eloquently explain how I would filter out the table in the view, but I'll show you what I did in the next version of the workbook and I'll try to document where it came from from these consolidated tools that populates that collection processing activity.

(Alex), please go ahead.

(Alex): Thanks, Berry. Yes, I think we just have to keep in mind that this purpose is a purpose to safeguard, right, the user's registration data, right, the rights of the user and to make them whole when things go awry. So just looking, responding to the comment from Stephanie, I think just looking at the green and yellow cells in that doc that just disappeared, it seems to me to be the right one to ensure that when a failure happens that a user can quickly get back up and running with their domain name without having to go back and fill in data that may be important or necessary to, you know, either ensure that their DNS entry is working correctly or that the, you know, the data that they want to make available in the future and our DDS is also transferred over.

So it seems to me that, from a data element point of view at least, we have the right set. Thanks.

Berry Cobb: Thank you, (Alex). Alan, please go ahead.

Alan Woods: Thank you. Just a very quick point. Just to add to what Stephanie is saying there, and I said it in the chat already, I completely agree with her. In this instance, both the registrars and the registries would be processors to ICANN's controllership. And the simple test for that would be, you know,

would we use an escrow? Would we go through the (unintelligible) of escrow if we didn't have it as an obligation or contract?

And to yell from the pillars, "Hell no," because every proper business in this day and age who uses data as their core will always have their disaster recovery and their backups offsite and things like that. That would be our controllership of it. The escrow is like another lock on top of that. So this is a very, very difficult one and I accept the cart is truly before the horse in this one because it really is.

And again, this is one of those areas where it would be nice to get the guidance of a proper contract, as Stephanie's pointing out, that would tell us both what exactly is necessary and the intention. So I do think that this is definitely something we need to flag to the plenary and needs to be flagged at ICANN saying, "You know, we can't really come to a solid recommendation on this but we tried our best and the gap should be filled in by the endeavors of ICANN in coming to a proper data controlling or data processing arrangement with all the parties involved."

Berry Cobb: Great. Thank you, Alan. Noted. And like I said, I'll update these PA1 so at least we get the workbook in a close to order as we can and then, secondarily, I mentioned it as possible topic to discuss with plenary. But keep in mind that I think we have the essence of that captured in our recommendations in the final report. The proof is in the pudding as to what happens afterwards.

All right, I'm going to move to purpose number five and this is one is about contractual compliance. And I know that there's still some outstanding issues being discussed at the plenary level about this. There are a couple of sidebar comments that I won't go into detail now but they were suggested by Alan Greenberg as part of the discussion about the ARS.

I still have them highlighted. We won't go through the in detail for today's call until that gets resolved at the plenary. But I did have one question that I wanted to ask your input on and that's specifically processing activity three, the disclosure of registration data. And it kind of hearkens back to the limitation of our workbook and the role changes that occur when data is transferred from A to B. A is transferring, B is technically collecting.

So that kind of same breakdown is occurring here that data is collected from registries or registrars at the request of ICANN contractual compliance. That data is transferred to them and then, subsequently, contractual compliance would process that data. So as it's currently documented here, processing activity number two is the act of that data being transferred to ICANN Org. Should we also document that that data is being disclosed, noting that it's practically the same thing that's occurring in PA2 or is sufficient just to note that the processing is actually occurring under PA2 and thus not documented as a disclosure? Any thoughts or questions about that?

I'm inclined to just repeat it for the sake of consistency for anything but again it really is just a repetition. Marc, please go ahead.

Marc Anderson: Thanks, Berry. It's Marc. So a couple things there. You know, I - so with compliance, you know, compliance is a specific contractual obligation and so I would not want to intertwine it with purpose two. I would - my inclination, you know, I guess I'd be open if others had arguments to the contrary but, you know, my inclination is to keep it separate from purpose two.

You know, I think that's a third party disclosure, whereas this compliance disclosure it occurring, you know, specifically under the terms of the contracts between the registry and registrar and ICANN. And so I think it's, you know, right belongs in a separate task.

You know, I'm having a little trouble with collection because, you know, I mean you don't, you know, some data is collected per the terms of our

contract, you know, at the direction of ICANN as the controller for sure, you know, but I don't think in any of those instances is the data collected for the purpose of compliance.

I think, you know, I hate using the term secondary purpose because, you know, it's - one, it doesn't really have a legal basis so it's just kind of a notion but, you know, so I hate using it but I'm going to, you know, I'm struggling with the right words here and so I'm going to throw that out here and say, you know, it's, you know, this is a secondary processing activity.

You know, ICANN compliance is performed on data and on domain registrations that are occurring in accordance with other purposes and other processing activities and so, you know, so I'm a struggling a little bit with how that processing activity one is laid out there but I do think keeping it separate and treating it as its own purpose is the way to go.

And I also think, you know, just I guess for what it's worth, you know, ARS, you know, I look at ARS is a compliance function also based on contract terms, you know. The accuracy, you know, particularly on the registrar side are including 2013 RAA, you know, so those are contractual obligations. So, you know, here as well I think this compliance activity is the right place for the ARS activities to reside.

Berry Cobb: Thank you, Marc. And yes, so I'm just kind of ready and waiting for the final green light from the plenary to make some of these edits that were suggested by Alan Greenberg in terms of finding a proper home for ARS, which again I think was not to be part of the actual research purpose recommendation. I'd also note that, you know, we were - I was specifically talking about the processing activity.

So if I did misspeak or misspoke, I didn't mean to refer to other purposes, but again the processing activity of PA3 of disclosing. But I think (Sarah) makes the point that we're probably fine in how we have it documented under PA2



as the transfer of this data to contractual compliance. And then I'll just make a note in disclosure that that's really covered under transmission and that we should be all right there.

Stephanie, please go ahead.

Stephanie Perrin: Thanks. Stephanie Perrin for the record. And you've heard me make this point, or try to, a million times already. This kind of accuracy requirement is disproportionate and -- I mean the accuracy that the compliance folks are actually testing -- and it's not necessary. If the registrars don't have a problem then why should anybody else. And the answer to that is third parties have a problem.

Now I don't think that that is going to engender any sympathy on the data minimization side. You do not put this kind of response burden on the registrants solely because third parties would like more accurate data. I can think of numerous examples in other sectors where other actors in the ecosystem would like accurate data, for instance how much money I owe, whether a check is going to clear the bank. They don't get it, you know? They have to take a risk.

Yes, I know. We can't resolve it. I'm reading Berry's comment there. But this thing has a life of its own that continues on in utter disregard for how a court or a data protection commissioner is going to view this, and I just want to put a great big bulls-eye on this one. We need to constrain this somehow and it just keeps floating along. Thanks.

Berry Cobb: Thank you, Stephanie. And Marc?

Marc Anderson: Thanks, Berry. What I was going to say is pretty much complementary to what Stephanie was going to say. You know, I do think ARS is part of this purpose but not in the way that Alan Greenberg is envisioning it, you know. And he's not here to defend himself so apologies for that. But, you know, he's

looking for unlimited access to the data and, you know, and also looking for it to extend beyond the life of the registration, and that's out of scope. You know, it's - accuracy and ARS is fine for this purpose as long as it's within the contractual limitations of what compliance is asking for.

You know, I'm going to respond to (Alex). I mean I don't know, he's not - Alan's not here to defend something but, you know, I understand what he's looking for to be sort of a backdoor, if you will, to the ARS system to, you know, to have access to un-redacted RDS data so that it can, you know, parse, you know, all the data. You know, I think he's looking to build in a backdoor for this.

And, you know, it's - from my perspective that's beyond the scope of what the contracts allow. And also, you know, it appears to be beyond the scope of what ICANN Org is looking for. You know, we've asked them questions from this - on this a couple times and I think, you know, if you look if their response for, you know, bulk registrar data access, you know, they look to limit that to only the information that was, you know, specifically requested.

You know, Stephanie's noting well, yes, the liability would be theirs, right, and I'm sure, you know, I know we have (Dan) and (Trang) on the call and so I shouldn't presume to speak for them but I'm sure they're doing their own liability assessment. And, you know, it's not clear to me that they're asking for this. It doesn't seem that they are. And so I'm - you know, I support having the ARS as part of this purpose but only so far as, you know, is necessary to achieve the purpose and is allowed within the terms of contracts. So just, you know, sort of responding to what Stephanie said in support of that.

Berry Cobb: All right. Thank you, Marc. Noted. I think I got what I needed in terms of completing that part of the workbook and I listed this down as a potential item that we can take back to the plenary that will include with the notes.

So we have about 20 minutes remaining. I'd like to definitely spend a little bit of time on purpose six. We haven't discussed it much yet and it's probably one of my most favorite only because again I'm a self-proclaimed black belt expert in UDRP/URS since I've been on that PDP. But I think mostly what I wanted to talk with this group about first is the structural change that was made to this workbook.

And, (Alex), I know that you and your colleagues still have some input on this. Hopefully this revised version will help in some of your group's deliberations about this. But ultimately I think what I'll do first again is just to remind everybody the processing activities going on here. So, you know, the first one being that, you know, there is - I guess first and foremost this purpose is complicated in that it has several ERPs combined into one.

And what I tried to make note of here is that most of this workbook is focused around UDRP, URS and PDRP. The other two DRPs haven't necessarily been used and so it's difficult for us to nail down exactly what registration data might be used for those. So I put a small disclaimer in there that the structure of this workbook is mostly around the first three and that when the other two are invoked, if they ever are, that that will provide better visibility about what potential registration data may be required to meet those.

But again - so, you know, the first processing activity again is the collection of this data from registrars and registries that would be necessary to process a compliant in UDRP, URS and PDRP, not to neglect the other two processing activities but you'll see a fixed PA1 Zulu, Z as Zulu, to still note documentation around the RDDR and the PDDR but again that they're not being connected to data flow diagram or the data elements table itself.

So then you'll see that we drop down into processing activity two, which is essentially the transfer of data from a registrar to a registry. But then where it gets fun is starting with processing activity three and that's the transmission of this registration data to dispute resolution providers. Again you'll notice the

PA3Z, you know, singling out the other two DRPs that are not a part of this structure.

And then we start getting into the disclosure of the registration data used for complaints to the complainant from the dispute resolution provider. And then ultimately, which wasn't properly documented, was the publication of that registration data on completed complaints. And then there's also some - a further breakout on the retention of this, and we'll come back to retention in a little bit.

So ultimately what we have here from the data flow map, again the registries or registrars, I'm looking at processing activity three, what is kind of highlighted in purple, in that, you know, these specific data elements being transferred to the providers. In some cases -- pardon me -- in some cases that data is disclosed to the complainant, especially in cases like where privacy proxy were an issue which already exist today - apologies. Sorry about that.

And that again then further when you look at PA5 which gets into the publication of minimal data elements with that UDRP or URS case. So it breaks down into the data elements table, you'll see that essentially there's required almost across the board from either data being collected or transferred to the provider and then ultimately disclosed to the complainant.

But the different nuances, processing activity number five, which is the publication of that complaint on a provider's site, and you'll see that there's really just a thin version of what it actually published, which would be the domain name, the registrar, the registrant name and organization if it's provided, as well as the city, state and country. That is what currently exists today when I review through the WIPO and ADR forum sites.

So I think what's good about this version is that it fully documents the end-to-end transaction of a UDRP/URS complaint and so I just wanted to highlight

some of those changes because this is probably one of the ones that have changed the most from our initial report. So I'll stop there.

Marc, please go ahead.

Marc Anderson: Hey, Berry. Marc Anderson. I feel like I risk being predicable on this call here but I'm raising my hand on the transfer from the registrar to the registry processing activity. You know, I'll just try and put it as clear as I can. You know, if we're just transferring the data to the registry so they can be a pass-through to send it on to somebody else, then it's probably not necessary and appropriate under GDPR.

You know, that processing activity can and does happen without the registry's involvement and so, you know, for this purpose it's not necessary to transfer data from the registrar to the registry to achieve the UDRP/URS purposes, and we should update it to reflect it.

Berry Cobb: Thank you, Marc. And I have noted that I will make that change because you're right, it does fall exactly in line back with purpose three, which was enabling communication with the registered name holder. So I will blank out processing activity two. There was another point I wanted to make about this one.

It'd probably help if I was looking at the right purpose for my own document. Sorry about that. So yes. I'll make that update. And then the second thing that I wanted to mention as it related to this had to deal with the retention of this data as it evolves to its different stages.

So the retention of registration data from contracted parties is not necessary for this particular purpose workbook but now that data is being processed by a dispute resolution provider, in essence it's being processed by a complainant in cases where they would receive that registration data and amend their complaint.

And then thirdly there's also the retention of the data as it relates to how it's being published on the data - or the dispute provider sites. So. And I don't think that we were very precise when we were building these workbooks as far back as in Los Angeles but should we provide more information here about how that data should be retained?

So for example, WIPO completes a UDRP complaint that the complainant prevailed. The full registration data that they would receive from a contracted party, how long should they be holding on to that full data set? Secondly, how long should the complainant be retaining that data for the purpose of - for achieving this purpose? Should we put in some notes about it or, secondarily, or as another option, is this something that is even within the scope of this group in terms of trying to document what those retention requirements should be?

And then lastly, you know, as it relates to the publication of complaints on a provider's site, I think in some cases the DRPs themselves are considering themselves controllers and would probably have a processing activity defined about how long that particular data would be retained. And I'll just note that there are some sidebar comments that I've included into the workbook that were supplied from WIPO as it relates to the publication of data on the complaint. But again as, you know, so just to restate the question that I'm asking you is should we provide information as to how long data should be retained by the provider and/or the complainant? And I'll stop there.

So (Alex) please raise your hand - or I mean please speak. And I'd also like you to respond if this structure aligns more with what your colleagues have been discussing amongst yourselves. (Alex), please go ahead.

(Alex): Yes. So I think -- thanks, it's (Alex) -- I think the data flow map is better and I think it more accurately reflects what's going on. It seems to me that the key piece here is the sole MOUDPA, right, which will no doubt, I assume, sort of

detail things like retention. It seems to me that that is where those type of details will be laid out. I'm glad you found or worked with WIPO to find that language. That's something that I had found and the form had something similar, which is helpful.

And I guess the last -- this is more of a question -- is in the data flow map which you have up there, is that arrow correct between complainant and UDRP provider for PA4 or should it go the other way?

Berry Cobb: Thank you, (Alex). I guess, to be honest, I didn't have a diehard principle about the directions of arrows. I'm sure that it's probably somewhat inconsistent. I guess I could probably get arrows on both ends. The original intent was that the complainant was filing the complaint with the provider but I should probably put an arrow back to the complainant because in essence they could be collecting data that is being transferred to them from the provider.

(Alex): That's right, yes. That's kind of what I had in mind here. So I think if we did that, that would make sense to enable the so-called Joe Doe situation.

Berry Cobb: Correct. Yes, that's what I was - in my painting masterpiece, that's the - what I was going for.

(Alex): Right. So, you know, I think this looks good to me. I haven't had a chance to discuss this update with the experts, which as I've mentioned in the past I am not. So I'm - I've been taking notes and I'll plan to send this latest version to them today with a bunch of a specific questions, specifically where do the providers get their data from? Is it just the registry - sorry, is it just the registrar or do they ever get it from the registry?

And this goes back to the question and the issue that Marc raised. So I just wanted to validate where things stand and how things work currently. It doesn't mean that that's - means that they have to work the same way

moving forward. And then I'll make sure that they're comfortable with the data elements table for disclosure and publication, as you've done.

And then I'll ask about retention and confirm with them if they feel that that would be something that is - would be specified, well it's either specified now in some contract or if that would be further specified in the data processing agreement that is still to be defined. It's not clear to me how that works, but. So those are the questions I'll be asking of them and I'll make sure I respond back to the list as soon as I can.

Berry Cobb: Thanks, (Alex). A few comments in response. Hopefully I can remember these. First, wait a few hours after this call so I can make updates to this version so you can send over the latest example.

(Alex): Okay.

Berry Cobb: Secondly, oh, the reason why - well, so part of my update again will be to blank out the transfer processing activity PA2, but in terms of today's current environment, for the most part or, you know, probably almost as near 100% as you can get, when a UDRP is filed the provider will contact the registrar for that information, and that's just the way that it's always worked.

In URS the rules and procedures specifically state that the provider should contact the registry. My understanding that was primarily because registries were considered authoritative because the URS was part of the new gTLD registry agreement and the 2013 registrar accreditation agreement but that, you know, with a thick Whois environment, the registry would be considered the authoritative source and thus them contacting a registry.

You know, ultimately this is probably more a policy question for an RPM group as to who's the best, you know, the best to be contacting for this information. And it occurs on a couple of different levels but, you know, does it make sense that perhaps all UDRP/URS requests should flow to the



registrar as opposed to a combination of the registry or registrar? Those are some questions that can be figured out elsewhere.

But ultimately under today's state, URS predominantly will be requested from a registry UDRP requested from a registrar, hence both purple lines flowing from the registry and registrar for those particular types of DRPs. And to Stephanie's point about who the controller and the processor is, you know, I think in a generic sense it's probably ICANN is a controller and the DRPs are processors.

However, that is complicated given today's current environment where URS providers do have an MOU and perhaps that can be a vehicle for some sort of DPA. But in terms of UDRP providers, there's no agreement nor an MOU and so the discussion of who would be a controller and processor I think is even more complicated, but that is something that would, as I understand, would be worked out in the implementation phase of adhering to the recommendation about creating GDPR-compliant types of arrangements across these parties. So it will be worked out.

But I think in terms of what we're trying to accomplish in the workbooks today is a general notion of a controller process or arrangement, again, not knowing that, you know, probably the details that we should.

Marc, please go ahead.

Marc Anderson: Thanks, Berry. It's Marc. You know, in your middle - I raised my hand to respond to (Alex)'s question on current practice and I agree with what you said. You know, in the cases of UDRP, generally, you know, the UDRP provider goes to the registrar. On the URS I'll just clarify a little bit. You know, URS as a rights protection mechanism is a construct of the new gTLD program. And so it was written for new gTLDs as part of the new gTLD program and it's - and those new gTLDs were all envisioned to be thick.

So when it was written the URS policy itself specifies that the URS provider go to the registry. So that's written in the, you know, in the URS language itself and that's the practice that URS providers follow for URS complaints. As you said, that's not the way it has to be and maybe isn't even the best way for that be done.

There are functions, you know, under a URS proceeding, there are things that a registry has to do. There are tasks for a registry to perform so the URS provider would need to go to the registry but as far as disclosure of non-public data, you know, I would certainly suggest that going to the registrar is the more appropriate path for that, but I hope that's helpful background for you.

Berry Cobb: Great. Thank you. So I think we've talked through this one. We're already over time so in the next version just review through purpose seven. That one's pretty straightforward. I don't think there's anything contentious here other than just maybe Marc highlight to (Kristina) that I've got one little sidebar about the disclosure of registration for this purpose. I could use some clarity around that.

The last thing that I'll just quickly talk about which was - so this consolidated table, and take a little bit closer look at it when you get a chance. So Page 1, again is really just about the in the aggregate what data is being collected by the registrar. The second page is what data is being transferred to the registry or AKA collected by the registry and generated. So that's a particular view.

The third page is really just kind of a repeat of Page 1. In essence what is being collected at the registrar if there is a transfer of data to the registry, it would be those particular data elements. So that one's almost kind of, again, it's really repetitive based on our current logic in the workbooks.

I think Page 4 is very important as it relates to the disclosure or really the publication of data. And this is a pretty big change from what we had documented in these tables at the time of the initial report. But what I do like about this is it is a very clear picture now about what is truly going to be published on this freely available directory out there. So take a little bit closer look at that.

And then lastly this one is hard to see in the Adobe Connect room but this is a first example of the screenshots that will be included back with the recommendations in the main body of the final report. So for example, recommendation four is about what data is going to be collected from a registrar. We're going to need to update recommendation four to also highlight what data elements are collected/generated by the registry in terms of recommendation five about the general, you know, transfer of data from a registrar to a registry and the baggage around thick Whois, but that's contained in there.

And then lastly on recommendation eight, which is the last page of this PDF, would be the screen capture that would be presented when it's talking about what data elements would be redacted as well as the minimum public data set. So I'll stop there.

Like I said, in the next couple of hours I'll work on the next version of the draft and get that out. And right now we don't have a meeting scheduled for Thursday. Do we need one or do we think that we can wrap up the rest of this over the list?

(Alex): Yes, let's try to wrap things up over the list if we can.

Berry Cobb: Great. Excellent. All right so any parting complaints, gripes, thoughts? If not we'll call this a close. Thank you for your participation and you'll see some meeting - or some emails on the list. Thank you again. Take care.

(Alex): Thanks, Berry.

Berry Cobb: Cheers.

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