

**ICANN
Transcription ICANN Panama City
GNSO: CPH GDPR Discussion Group
Thursday, 28 June 2018 at 09:00 EST**

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Woman: June 28, 2018 GNSO CPH GDPR Discussion Group 9 am to 10:15, Salon 8.

Graeme Bunton: Good morning all. Good morning. We're going to need another couple minutes to - good morning all.

Woman: Hi, Graeme.

Graeme Bunton: Hi. We need another couple minutes to figure out if this was supposed to be a closed session or not, so bear with me for two minutes. Thank you. Okay.

Paul Diaz: Hey good morning everyone. Is this thing working? Is it working? Sort of. Okay this is Paul Diaz, the chair of the Registry Stakeholder Group. I realize on the calendar this is an open session but it was intended to be a discussion amongst the contracted parties. So I see a lot of unfamiliar faces.

I'm not sure what you all - if you're not a registry or registrar, we're hoping to get everything in here. It's a small room and standing room only. Help me out here. What is the expectation of this session for those who are not registries and registrars? Anybody? It's just - are you all prepared to stand for 90 minutes and just listen?

Graeme Bunton: And speaking of which, actually if you're not a CPH member that's planning on being engaged in that conversation, I think we'd probably appreciate it if you would make room at the table for those who are. Thank you.

Paul Diaz: Vicky?

Vicky Sheckler: Thanks. I'm on the floor. It's lovely. And I'd love to hear your perspectives on the topic that you have here. I'm looking forward to hearing it. Thank you.

Graeme Bunton: So this is not the place where we share our outside perspectives, this is the place where we discuss what those positions might be and develop them over the course of however long this conversation is - is the goal.

Paul Diaz: Okay. Yes, we're not looking to kick people out but at the same time it's just, you know, please I want to level set any expectations here. You know, I guess it's good for folks who are not registries or registrars to understand what we're saying but at the same time really, you're going to sit in here the whole time? Yes, because I mean it necessarily constrains the dialogue if it's not registries and registrars only. (Maggie)? Yes, and that might be part of the problem. You know, that's what I'm hinting at. Thank you.

Tapani Tarvainen: So you are making this a closed session? (Unintelligible) I've been hearing what you're saying. I'm just here to listen but if you want us out, that's fine.

Paul Diaz: Yes, honestly I think it needs to - it should have been listed as a closed session. I mean it's...

Graeme Bunton: I think we - let's...

Paul Diaz: Make it a closed session, yes. So if not registry or registrar, please.

Graeme Bunton: Yes, I think that's it. I think we're deciding this is closed. Thank you everyone. We appreciate your interest and we'll, you know, try to share where this discussion ended up.

So good morning everyone. Thank you for bearing with that unfortunate confusion. Apologies to everyone we just kicked off out of the room. This is now a closed session. Having said that, it is physically closed, probably like me, emotionally closed, but it is not closed on Adobe Connect. So it's entirely possible that people from outside the CPH are in there, who are now all dialing in, could be in there. You know?

Although, having said that, it's an ICANN meeting and like how our -- and ooh I get this opportunity to run this bit again -- you know, the reason we closed this meeting is so that we have a reasonably safe space to have some discussion so that we can float some ideas, we can have some disagreement, hopefully come to a place where we agree but maybe not, but we need to be able to do that in a way that we feel secure that we can share our opinions and they won't be shared elsewhere.

So I don't expect this to be a secret here but I expect people to sort of respect something close to chat and house rules where you can say, "Hey, these are things we were talking about." And I'm being passed notes. Oh, (Kevin Murphy). Come on, man. Get out of there. Get off my Adobe. Shoo. Shoo, (Kevin).

So, you know, respect this place as a place for discussion, respect that we have, you know, differing opinions, and we don't need to go around to the rest of the community saying, Oh Graeme from Tucows said this specific thing. That's their position.

And I say this because someone was sending emails directly to ICANN staff from the DG discussion group list, and I think I talked about this yesterday somewhere and I'll talk about it again today, that so undermines our ability to

have open dialogue amongst ourselves, disagreement and discussion to try and come to places where we all agree and for staff to hear opinions before they're fully baked, it's terrible.

So do not do that. I will be so mad if I find you doing that. I will lose my mind. I'm always so calm and careful and don't do. It undermines so much of our ability to do work. So, you know, I think we can treat this pretty reasonable. This is not rocket science, but respect the space and our ability to have discussions. Michele?

Michele Neylon: Michele for whatever. Just ICANN staff were asking me do we want them to leave the room as well or are you happy to leave them here?

Paul Diaz: Who's left, Michele? I'm looking around. I thought they all got up.

Michele Neylon: They have a bad habit of hiding in corners but I don't know where they are. One of them messaged me asking. I don't know. I couldn't see whether they were in the room or not but they did ask me. Okay, I don't know.

Paul Diaz: Oh so with that...

Graeme Bunton: With that delightful introduction, okay so this is the CPH Discussion Group. You have noted probably that our mailing list has been pretty quiet recently and that's because I don't think a lot of people have trust in that at the moment. You know, the ExComs need to think about that. Maybe we spinoff another one but then we don't know who is leaking emails and so it's hard to say that that will be successful too.

What do we want to do with our next hour? I don't think we have a set agenda other than continuing discussion of GDPR. I see Michele's got a hand. I don't know if we want to go into a scoping and issues and the council level or if we want to dig into some other pieces. I'm happy to entertain ideas.

I also don't want to waste everybody's time for another hour. I could be snoozing. Michele?

Michele Neylon: Thanks. Michele for records or whatever. I suppose I wanted to talk about practical fragmentation issues that we're facing. At the moment it's almost impossible for us as a registrar to offer our registrants the ability to opt in if they want to because most of the registries don't offer any PPE extension for that nor do they offer a - any kind of sane process to allow for that.

Related to that, we've seen a wonderful mishmash of implementations in with some registries and registrars not removing the email addresses but providing completely useless ones. And just this - it's very, very messy. Now I don't care about other parties outside of it, I care about my ability to be able to operate sanely. Okay, I do care about other things as well, but at the moment there's a mishmash of implementations out there.

We've got some people who I know did things because they had to do stuff to meet that 25th of May deadline. ICANN was slow with the spec. Okay, we know that, but are they planning to address this and if so when?

Graeme Bunton: Thanks, Michele. I think that's also driving some of the frustration we're seeing from the IPC BC when, you know, they're trying to submit these access to data requests that there's all sorts of different implementations, and probably we can do a better job now that we're past the panic of providing some resources to our CPH membership about like hey here's what looks to be a good way of doing these sorts of things, let's all try and begin to harmonize so that we can all continue to do business in a reasonable way. I think I saw Rubens' hand?

Rubens Kuhl: Michele, one of the issues that registries are facing that any disclosure mechanism is - comes with an expiration date, because when you all moved to RDAP you just refer queries to the registrar of RDAP. So this is - this is possibly something that would only be used for a year and then...

Michele Neylon: Rubens, I really don't care. I mean the point of the matter is legally speaking we need to have some kind of mechanism. Some of the registries have done something about this. It's just that there's others who just simply haven't. Now I don't have to worry about (Comanet) because they're thin so we can control that ourselves, but with the thick registries we are relying on the registry to provide some way for us to do that.

Now in the ccTLD space, a couple of them have deployed solutions but others are literally saying to us, "You need to email us each and every time." Now it's just that kind of fragmentation is just ridiculous. And then things like the inconsistencies about the email addresses or the contact points that aren't being put in Whois also causes massive headaches. So you do end up with a situation where software systems just don't know what the hell deal with and we're wasting a lot of time.

If I have to pull in a developer to debug a transfer in or a transfer out, any margin I've made is completely gone. I mean I'm not going to make any money out of that client unless they're transferring thousands of domains to us, and obviously they're not. So it's just these are, you know, it's - I'm not interested in this kind of one-year type thing, I'm just talking about, look, we've got the specification. It's going to be there for 12 months. We've got some registries doing some things. Others haven't done a thing, or maybe they have and they just haven't told us.

Crystal Ondo: Hey, Michele. It's Crystal Ondo. I'm trying to figure out what you're specifically asking about: consent for publication or about email addresses? Because right now registries have a different requirement than registrars for their Whois output, which I think is causing some of the problems, as registrars obviously were relying on thick registries Whois output.

So I know we've had that problem and we made a switch maybe two weeks ago at some registrars' request. So I think if registrars got together, I mean

we have one too and they complained to us as well, and tell us what you need from thick registries, we'd be much more happy to implement it and get around what we can do. But as for like email forwarding, that's not something registries can do in their Whois outputs, so I'm not exactly sure how we fix that.

Michele Neylon: Thanks, Crystal. No, I mean not asking for - asking you specifically for anything. I think it's more around can we try and actually have some kind of level of communication about what's happening. Because if you, for example, you changed your Whois output, you specifically, you just said it so, but, you know, was that communicated and if so when and how? Because any time those kind of changes are made, it has an impact on other parts of our systems.

So, you know, I know that (Gavin) from (Centranick) has been talking about some kind of contact management stuff. I mean there's a bunch of different things there. I'm not specifically talking about emails. It's more, you know, if we can just be a little bit more kind of coordinated so that I can go back to my guys internally and go, right, well look, we won't have a solution for this for six months because of this, this and this, because I'm not going to implement it for like one TLD and no other one because that'll cause you more confusion.

Paul Diaz: Okay. There's a lot of people. Okay, I don't know. Again, we don't have a formal agenda for this one's information exchange. So, Jeff?

Jeff Neuman: This is Jeff Neuman. Just a question to the CPH. So there's been a group working on the SLAs and reporting requirements and it says it has to be agreed upon by - with ICANN with - by July 31. Have the ExComs thought about how we can go about making sure that, I don't even know how this works from an ICANN perspective, but how we can make sure that we have agreement from both the registries and registrars and so we can present is we have reached agreement.

So the small group will come to an agreement on these. What's - have you guys thought about what the process would be going forward, just in trying to move everything forward?

Paul Diaz: Yes, honestly I've not given it a lot of thought. We'll begin with the small group for sure because it's the most active members from both, and my intention is, at least for the registries, would be then to whatever that output is, as quickly as possible, get it to the full list. And since we have biweekly meetings, we should be able to discuss that on a - in a meeting and be ready by the end of the month. Sam?

Samantha Demetriou: And consider -- this is Sam -- considering the pretty tight timeline, maybe what we do is we publish a document and we issue a specific call like for your tech folks, like just necessarily the regular people who are on the call. We set aside an hour, 45 minutes, 30 minutes, however much time. Give plenty of advance notice. Like even if you don't usually join the stakeholder group call, if this is something you're interested in, this is the date to dial in.

Crystal Ondo: It's Crystal again. Do you know and have you (unintelligible) Jeff, about if we're asking for changes? Because what they put in the temp spec originally was totally fine with us, so I'm trying to figure out if we're negotiating against that or how much we need to focus on it.

Jeff Neuman: Yes, so it turns out that what was put in there was not totally fine with a lot of people. I didn't know that either. So there are I wouldn't say major changes. There's some changes that we've discussed with ICANN in that small group. We are submitting a redline to them probably in the next few days with - it's an open Google Doc that was sent around so you can see what the things that people have asked for.

Essentially it's a ramp up period because it's something new, so we shouldn't, you know - nobody's going to object from this group to the changes that we're making, but we just have to - all the temp spec says is, you know,

upon agreement and I'm just trying to put a process along with what will demonstrate our, quote, agreement.

And I've also asked a question of ICANN, what do they have to do to, quote, demonstrate their agreement, and then does it become a part of a - like we just don't know what happens at that point. But I think the part we have to worry about here is just how do we show our agreement.

Paul Diaz: Pam?

Pam Little: I have a follow-up question on that one. In the temp spec, there is also a obligation to give notice to the existing and new registrants about this GDPR processing. We're supposed to get to - give to registrants. That's now - that is replacing the current provision in the RAA 3772. So presumably we need to have that also changed or amended to the RAA, and should that be done with an SLA change together or is it going to be a separate effort? Because that is not included in the EPDP's scope at the moment. It's a contract tool amendment.

Jeff Neuman: We're not - I mean - I'll - that's not really a question for me because that's - the SLA reporting group is just very focused on just that.

Pam Little: But it's related to the contract - sorry, it's a similar contractual change rather a policy development effort.

Paul Diaz: Crystal?

Crystal Ondo: Hey, Pam, it's Crystal. I think the temp spec trumps the contract so we're not going back and amending the contract per each provision of the temp spec, but to the extent that the temp spec makes a change, it trumps via the implementation of the board. So we do have to send notices and we sent around our privacy policy in April, updating registrants. So I think they're - we're not going to go through and amend each RA and RAA with ICANN.

They're just relying on the temp spec and then they're going to rely on the consensus policy that comes out of the EPDP, which will in turn amend our contracts as well.

Pam Little: That's my point. It's not included in the current draft scope of the EPDP, because it's a contractual amendment and the temp spec would only last for up to 12 months presumably unless they issue another one. So on the 25th of May, 2019 we would have a RAA that has different provision requirements to the one in temp spec.

Crystal Ondo: Then I think we take that up with the GNSO and talk about the scope of the EPDP.

Samantha Demetriou: Or is this -- sorry, it's Sam -- or is this a question for like ICANN Legal, like how this - how something like that gets memorialized? Because all that stuff is going to be coming up before the spec runs out, theoretically before the EPDP concludes theoretically.

Jeff Neuman: If I could just add to that. There are, what, six areas I think you registries said were outside the - sorry, yes, were outside the picket fence, so we - we're going to have to address those in some way. And so if that's by mutual agreement and - there's going to have to be something kicked off in the next whenever it is to make either those permanent or get rid of, whatever it is we're going to do. So we do have to have a contract amendment process and this will be the first time it'll probably be registries/registrars together at ICANN.

Paul Diaz: (Unintelligible)

Samantha Demetriou: Do you want me to say it for you?

Beth Bacon: So we have a draft going with ICANN and they're almost done. I just have a question for when it's actually finished, do we need the registrars to make a

statement or something of some kind saying hey this is what we've drafted, this is presumptively approved, if use something substantially similar, if you make changes, let us know. I just think we need to nail down that process because we need to ship that out soon.

Graeme Bunton: Thank you, Beth. This is Graeme for the transcript. Right. This is a good discussion to have. So registrars, for those in the room, should all have seen several drafts now of the RAA amendment to deal with data handling. It's gone out to the list a bunch. That has gone back and forth between the group of people who are working on it, including a bunch of registrars, ICANN staff, and the RYSG, and I think, assuming (Luke) can nod at me, that he's acceptably okay. I'll take that shrug. Then we can move forward with that.

And so the process is, just so everybody is super clear, and registrars you need to be super clear on this, that if we're all agreed then registries can put forward an RAA agreement change, amendment, with just this or what's the actual - there's specific - substantially similar to just this so they don't get to change whatever else is in their contract. It's really just this data handling piece. Then ICANN will auto-approve it and we will auto-approve it.

And the goal there is for us not to have to dig into the thousand-odd RAAs that we're going to get because we don't have the time or capacity to do that. Even if we hired outside council to begin looking at all of these RAAs, it would be unbelievably expensive and time-consuming. So this is expeditious and reasonable I think, but we all need to be pretty comfortable within - with what's in this sort of templated data handling amendment. And if you're not, A, where we were you over the last three months, you know, B, now here now is your last chance.

And so now what (Becky) and Crystal are mumbling about -- sorry, Beth and Crystal. I'm tired. It's been a very a long meeting. It's how much respect and esteem I have for you. Are getting at is what is the process. So if we are all agreed on this thing, then yes I think probably there's I don't even know

where that, you know, formal email goes to the registry list to say and ICANN to say yes we agree with this amendment spec, we all like it, we will approve anything that comes through that is substantially similar.

So I have Jeff in the queue and then I have you guys. I have...

Jeff Neuman: So I would -- this is Jeff Neuman -- what I would recommend is once everyone's fine with it that we have I guess the registries formally submit it to ICANN. ICANN then should send their normal thing to the registrars in their normal - in the normal way that they send these amendments and then we should respond with a formal yes from the Registrar Stakeholder Group, just to have it all go through the proper channel.

Graeme Bunton: Sorry, just to be clear, you want to do that 1,000 times?

Jeff Neuman: No, no, no, the once. Sorry. Once the template is approved, right, then you have the Registry Stakeholder Group submit that to ICANN and say that this is the model changes we want for the RAAs and if we do this we don't have to submit it again. Then you have ICANN submit it to the registrars like they normally do, saying it'll apply to everyone and then the registrars respond in their normal way to say yes -- once.

Graeme Bunton: Right. So I don't think it can actually work quite that way because not every registry wants to use this. They may want to diverge, which is fine. Registries can do that. They just end up at the back of the line. Crystal?

Jeff Neuman: Again, that notice would say just what you said but just let's have it go through same formal approval.

Graeme Bunton: Yes, I think it still needs to go through ICANN. Crystal feels very strongly. I can see her feeling things. Please.

Crystal Ondo: I have all the feelings. Thanks, Graeme, it's Crystal. So, (Cyrus)'s team has already kind of scoped what this process is going to look like and my understanding is that they're going to ask registries who want to use this to sign a certification document that says what I'm amending is substantially similar to this RAA. Here it is. And ICANN is going to streamline it and I believe waive the waiting period of going through the RRSB as well.

And then they will send the notice to the RRSB saying this registry entity has agreed to use this form. It is going into effect on this date, and that's the end of it. But each registry does have to go to ICANN and certify that they are complying with this form. And ICANN Legal is also not planning on reviewing these like the RRSB. They don't want to go through 1,200 or 2,000 different ones, so they just want that certification from whoever your signatory authority is.

Paul Diaz: Jeff?

Jeff Neuman: Crystal, I don't think we're disagreeing. All I'm saying is once the model is the way it - is fine with everyone, right, the model is, then just a simple note from ICANN to the registrars saying this is the model and registrars will respond and say yes, great, and then you can do everything the same way that you were talking about.

It's just that there is preserving the process from the registrar perspective that amendments need to go through the registrars. So I don't think we're disagreeing. It's just very simple. Registrars will simply say, yes, that's great. But ICANN doesn't have the right to unilaterally just say that registrars no longer have a say.

Graeme Bunton: So technically ICANN does. They can approve amendments without our consent.

Jeff Neuman: Sorry. Only if there's no - there's no - it's not material.

Graeme Bunton: It doesn't matter. They can - even if we disagree, they can say - even - so they can decide it's material, send it to us, and we can say this is garbage and ICANN can still approve it.

Jeff Neuman: Sure. Absolutely. But they still need to give us an opportunity to say whether it's garbage or not. That's all I'm saying.

Graeme Bunton: And what we're trying to do here is avoid having to do that.

Jeff Neuman: All I'm saying is if the registrars are okay with it, the group that normally reviews it, which I'm part of a small group, we will say yes it's fine and sign on off in almost the same day and we'll get it back. I mean let's - it's not complicated. It's just a process.

Crystal Ondo: No, I 100% agree, but it won't be one form the way that like - folded into my RAA might be different the way it folds into Brian's RAA. So there will be like some language changes so you can't just have one RYSG one RRSR, it has to come from each individual registry, which I think is what you were disagreeing with actually.

Jeff Neuman: No I understand. I'll draft it really quick. I'll send it to you. It'll be easy. I understand what you're saying. We'll make it easy. Don't worry about it. Just the language. So long as it's substantially - the exact words that you just said. So long as it's substantially similar to this model language attached, then it can go out. It doesn't need to be sent to the registrars. Check.

Man: Jeff I get - and I guess basically that's kind of what we were asking for is would there be some RRSR certification that as long as what's promulgated under 632 in the temp spec is - that the registrars are okay with that, and that's fine. So as long as it's just talking about that then I think that's fine.

Graeme Bunton: I think we're all now talking past ourselves. We're all just about uniformly agreed that this is going to happen. Did anyone have any - so I see Samantha, Becky, and this is also, you know, talking about RAAs, registrars. If you've got concerns, now or forever hold your piece. Samantha?

Beth Bacon: I'm going to save my voice and not be mean to your right now. So I think I will just put in a plug for the fact that on the registries and registrars list just this week it went around, the final version, so if you don't have feelings, or actually if you do have feelings keep them to yourself. But if you have feelings, please let us know. I think there are a few items.

I know that there're are some questions about some minor changes for vTLDs as well as some other things and we kind of - we talked to ICANN and they said yes, no that would totally be substantially similar so if you need to make those changes it doesn't mean that if you agree to this you can't make those changes to customize to your needs. But so if you have like a general not nauseous feeling towards the template, just sign off real quick and we can start shipping this out because we're a month behind now.

Graeme Bunton: Yes. So hear that urgency, registrars, from the registries to get this done and out the door and let's wrap that up this week, and I think we're pretty close. Are we ready to move on from RAAs? Anybody else have thoughts from - for that particular piece?

Jeff Neuman: I don't think we finished on SLA reporting, other things that need to be finalized with, quote, agreement, according to the temp spec how we do that.

Graeme Bunton: Okay. Does anyone else have input on the SLAs piece?

Paul Diaz: Jeff, you want to go back? This is your July 31 deadline. So what we discussed...

Jeff Neuman: So I'm looking to the ExComs. I don't know if it needs to be - I don't know. Does it need to be a vote? Does it need to be - whatever it is, we need to signify our, quote, agreement with ICANN, and I'm turning to you guys to tell us how are we going to signify our agreement to ICANN by that date.

Graeme Bunton: So I don't think I want to run a vote on that inside the SG just for time purposes. So let's, you know, inside the RRSg we'll send an email asking to make sure that we have consensus on this issue and give people the opportunity - hey, do you want to draft that email for me? That sounds like a useful task for someone who's really dialed in. And we can see if there's any material objections from inside the SG and give people some time to do that, and then we can communicate it afterwards.

Jeff Neuman: So let's take it back as an action item because this will amend our agreements. So I just want to make sure that all the lawyers and everyone's comfortable with it. I'm fine with that if that's what all the legal teams think is good to amend our agreements. But so, cool.

Crystal Ondo: Different topic. Can I ask a different question?

Graeme Bunton: Let's just make sure we're closed off on that SLAs thing and the RAAs? Be real brief.

Michele Neylon: I'm just trying to clarify something. The SLA's fine and, you know, it's doing its thing. It's the change of the processing agreements which that's been captured in these updated RAAs or has that been captured elsewhere is what I'm - I kind of lost track of that. Sorry? Okay. No, that's fine. Sorry, it's just - there's been an insane volume of emails and documents and conversations and side conversations and back channels in the back channels, so I kind of got a bit confused.

Paul Diaz: Marc, go ahead.

Marc Anderson: Thanks. This is Marc. I just want to underscore about what Jeff said about amended our contracts. This will - the SLAs will also be - it's wrapped into the RDS language, which means it's (unintelligible) event. If you miss that SLA, it could trigger a (unintelligible) event. So just to underscore what Jeff said. This isn't a check-the-box item. Make sure you look at this. Make sure you have the right teams look at this.

Graeme Bunton: That's good input. Thank you. Jeff, as you've been volun-told to help draft that, let's make sure that we have that clear for our members when we send that email out. Okay. Thank you. Crystal's been waiting very patiently. Please.

Crystal Ondo: Nothing but patient. Thanks, Graeme. And to follow up on what Michele actually just said, I was wondering do - has ICANN given anyone the amendment to the - our data escrow agreements that we had all been expecting? Because maybe I missed it. She's talking now. Has that gone around to the stakeholder groups? Has anyone seen that?

Michele Neylon: Yes.

Crystal Ondo: It has?

Michele Neylon: If it's the one I'm thinking of, because (Denick) circulated one to us for data escrow. Is it that one or another one? Because, again, I'm completely confused at this stage.

Beth Bacon: This is Beth. So I spoke to ICANN staff as we were drafting the RAA amendment and they very explicitly asked do you feel that with a title change and some other amendments this can shift right to be also the data escrow DPA and we said, "Yes, what about you?" And they said, "Hell yes." So they don't want to do this again. They don't want to do a separate one. Basically they're going to change the title, tweak it a little bit, and will be there for the data escrow, just like in the temp spec.

Crystal Ondo: But if it's materially different, then what (Denick) sent Michele, how does that work? Michele, you want to share that document with everyone?

Michele Neylon: I'll see if I can dig it out. I mean the - several of us were signed on to (Denick) to do the data escrow. When we contacted them at the - when the announcement was made at GDD, (Denick) said, "Hey, yes that's great. Let's go for that." But we don't have this updated contract. But then I think about ten days to two weeks ago, they started to send them out to some registrars, and I know we got one. I'll see if I can find the PDF thingy that they sent me and you can have a look at it and see if it makes any sense to you.

Paul Diaz: Matt?

Matt Crossman: Can I just ask, I thought on one of our earlier updates -- and this is Matt Crossman from Amazon -- I thought on one of our earlier updates Cyrus had said that they were in discussions with the data escrow providers to work out those contract amendments. Did those like fall apart, just not happen?

Crystal Ondo: It's Crystal. According to Iron Mountain they didn't really get started in good faith - or not good faith but earnest. It was kind of like oh we'll do this eventually and everyone's like yes, and then nothing actually happened. So that's what - my understanding of where we are unfortunately in that process. So we're all escrowing data with no data processing requirements.

Paul Diaz: Okay. Thanks, Crystal. Donna?

Donna Austin: Thanks, Paul. Donna Austin. And this is somebody who hasn't been closely involved in the GDPR discussion group, but it seems like there's a lot of outstanding actions here and I'm just wondering who has the master spreadsheet identifying what is that needs to be ticked off by when and who's responsible? Do we have a document like that? If we don't, can we get one?

Graeme Bunton: I don't know that that particular document exists but I'm going to turn my head very slowly to look at Zoe. But we can compile all that list of things and get it out there, because I think that is useful for everybody to know that there's some dependencies.

Donna Austin: Yes.

Graeme Bunton: End of the week says Zoe we'll have something out there.

Paul Diaz: Other issues?

Graeme Bunton: Yes, what else do we need to sort out on this whole fun thing? Do we want to begin discussing choices available to council? Do councilors need more input? Are councilors burned out? Do we have any other technical bits and bobs we want to sort through?

Jonathan Robinson: Graeme, just before you go to that, I think - I mean just a previous suggestion, I think it'd be very useful - I mean I was thinking we needed to compile something like that internally so I suspect many of us would benefit from that. And if, Zoe, you want to do a draft and share it with us, you know, to test it against us before, you know, it sort of settles, that would be great.

Graeme Bunton: Cool. Good. Sam?

Samantha Demetriou: Thanks, Graeme. It's Sam. Before we move on to discussions on what's going on at the council level, I want to just float a question, an open question that I had to this group and see if anyone else has been thinking about this. ICANN published some FAQs related to the temporary specification and I thought about this earlier when we were talking about the consent and disclosure issue at the registry level because in the temp spec publishing additional data with consent of the registrant, like having that opt-in mechanism, is only a requirement for registrars. It's not listed as a specific requirement for registries.

And then in the FAQs, they talk about oh well there's not a mechanism for the communication between the registrar and registry. The registrars and registries just need to go figure this out together. So I just - I think there's like a lot of ambiguity there about what exactly their requirements are. And I don't know if something that we want to bring up to ICANN, if this is a communication, if there are other open questions, if we want to compile something. But I just think it's a little bit hinky and I wanted to just bring that to this group's attention, if anyone else is thinking about this kind of stuff.

Michele Neylon: That's actually - Sam, that's very helpful because I think this is part of what I was talking about earlier. I read it as being that both had to do it because in my head, and I'm probably not the only registrar who has that in their head, thick registry equals registry-handled Whois, I'm just breaking it down to the simple things, whereas, thin is a registry-registrar problem.

So the idea that now we're having this really odd situation where the registrars serving the Whois and the registries serving the Whois for the same name is not something my head has fully kind of assimilated. And there's other things in that - in those FAQs that some of us have looked at and scratched our heads collectively and went, "Eh, is that really what that means or is that something that we can actually do?"

Because I think there needs to be some kind of discussion there but they're really talking to us, they're talking at us, or at least that's the impression I'm getting.

Paul Diaz: Brian?

Brian Cimboric: Just one quick bit, Michele, and not to say that this is the right answer or the right language in the draft but Section 7 of the temp spec it does say that it's only applicable to registrars. It's in the sections applicable only to registrars.

Michele Neylon: God damn you lawyers and your photographic memories.

Crystal Ondo: Right. And this is something - oh I'm sorry.

Stephanie Duchesneau: Thanks, Paul. I just wanted to add that I don't know the reason why they did that but it might not just be about technical implementation. There's also sort of the legal issue of if the registrars are the ones that are going out and getting the consent and controlling that mechanism and GDPR has really onerous requirements around consent, if the registry doesn't control that mechanism, they're taking on risks that they aren't able to fence because they're to deciding what notice is given to those registrants, what it means to be getting a sufficient consent from them and so on. So it might have been sort of a policy decision as opposed to just a technical problem.

Michele Neylon: So you mean that ICANN might actually have understood privacy for the first time in their history? But the problem with that of course is it assumes, as ever, that the registrant deals directly with the registrar, which is the case for my clients but wouldn't be the case for Volker's clients. Anyway never mind. It's kind of still helpful to have this conversation.

Paul Diaz: Okay. Volker?

Volker Greimann: Yes. This sounds to me a bit like ICANN is moving away from the thick registry system again because if the registrar has the more complete system of - more the complete data of the - for the registration, if the customer opts in and they have also - are the only ones publishing the email address, that sound to me that ICANN is now expecting that the more usable, more reliable better Whois is provided by the registrar again, which seems a bit weird after all these years moving to thick Whois.

Paul Diaz: Crystal?

Crystal Ondo: Thanks. And just something to think about. We have a lot of registrars that aren't European and they are like banging down our door to get this consent mechanism in. I mean you're in China per se and the majority of your registrants are Chinese, why can't they pass through via EPP the consent flag that makes those Whois data public? So it is something that registries are looking at. I know GoDaddy has been pushing it as well to be able to get consent done via EPP, and it is something we are considering implementing.

Paul Diaz: Okay good. Other issues? Rahael?

Rahael Seifu: Hi. This is Rahael from Google Registry. I've raised it a couple times now at GDD and then in a follow-up call with ICANN. I don't know if anyone else shares my concern but with respect to passing on data to URS and UDRP providers, there is no direct relationship between the contracted parties and those entities.

And so now that that information is no longer public and we are passing on personal data pursuant to the temp spec to them, I'd like to make sure that there either appropriate terms in place in the contracts between ICANN and them that we feel gives us, you know, enough to be able to point to in terms of what they're required to do from a data security perspective or that we have some sort of direct relationship with them, perhaps that looks somewhat like whatever we're going to do with escrow providers and ensuring that they have agree to take on certain precautions.

Is this something that anyone else agrees we need to be thinking about? I know it might not be as high on the list of priorities but I think it should be on whatever master list we're keeping.

Paul Diaz: Thanks, Rahael. Michele?

Michele Neylon: I think you actually raise a very valid point and thank you. You've just added to my to-do list. No, but I think, joking aside, I think we probably should be asking for simple data processing agreements, if nothing else from WIPO and the others. Now I would assume that most of them have something. I mean they should have something. If they haven't, I would wonder what the hell they're doing wrong.

But even a simple data processing agreement that we can just have documented might help. I don't know if we need more than that. I mean we're not going to get the contracts from ICANN. Changing that would be an absolute nightmare, would take forever. A simple data process agreement, we have the safeguards in place, et cetera, et cetera is fine. But just following through on that is something that I've raised a few times is one of ICANN themselves looking for data. We can't send data to ICANN in Istanbul when there's no equivalency.

Paul Diaz: Thanks, Michele. Kristina and then...

Kristina Rosette: Kristina Rosette, Amazon Registry. Rahael, you're absolutely right. Two things to think about. I think the IPC is probably at least as interested in having that type of agreement in place as we are. So this might be a good spot to try and find some common ground and identify an area where the contracted parties can work with the IPC, and that might have some positive spillover effects in other areas of this work.

The other thing that I wanted to flag is that it's my recollection, although I hope I'm wrong, that ICANN doesn't actually have contracts with the UDRP providers. So that poses a whole different set of issues. So this might something that we might want to put a big red star next to.

Paul Diaz: Okay. I had somebody in the corner? Beth?

Beth Bacon: I agree, Rahael, it's an issue. What we've been thinking about is that we have a section for disclosures in our privacy policy and URS and UDRP because ICANN is not a party to that contract with them and it's a one-to-one issue.

Either we get requests from an IP lawyer saying we have a URS, UDRP case and we would give it them and they would be bound by the disclosures requirement and if it were a URS or UDRP provider, I think that's it's really easy, as Kristina says, for us to do a quick template of an easy agreement to say, "Hey, here's the information. Here's what you need sign. Here's how you should handle it." But I think it's important but I think it's an easy fix.

Paul Diaz: Rahael?

Rahael Seifu: Hi. Thank you for that helpful feedback from all of you. Just so you know the latest. I've emailed at (Cyrus)'s request a description of what I thought the issue was and asking what I wanted ICANN to look into at get back to me about on May 25 and (Cyrus) said that they would look into it and update myself and the rest of the team as soon as possible, but we haven't heard anything more since. So I think since it is something that people seem interested in, I'll follow up and I'll relay to this group whatever I hear back from them.

Paul Diaz: Michele?

Michele Neylon: Yes thanks. Michele for the record. This is - this identifies an issue I think a lot of us are having where we're - a lot of us are asking either the same questions or very similar questions and ICANN is going to - is slapping itself on the back going, "Hey, aren't we wonderful, aren't we great?" because they put out a fairly useless FAQ that covers, you know, things you probably don't even need answers to because you can actually read English.

Whereas these questions that some of us are bringing to them, and they're doing this kind of divide and conquer, so I submit two, three questions, I get a

response only because (Cyrus) knows damn well if he doesn't reply to me I will drive him absolutely nuts, you submit it and he ignores you.

Somebody else submits it - I mean it's just - if they were doing a better job I think of actually being a little bit transparent about the questions that they're receiving and the responses that they're giving, that would probably be very helpful. Because at the moment I suspect that it's duplicative. I mean it must be.

Graeme Bunton: Go ahead, Donna.

Donna Austin: Yes I think there's another side to that, Michele, in that obviously we're going to ICANN individually potentially asking the same questions, potentially getting different answers and that creates a problem as well. So to the extent that we have a master spreadsheet that can capture the outstanding items and perhaps also try to track what people have been asking and the responses they're getting, I think that's going to help everybody. So I think, you know, coordination amongst all of us is only going to help us all in the end I think.

Graeme Bunton: I see some nodding heads. Okay. Michele, go ahead.

Michele Neylon: Sorry. No, as you don't have an agenda, I'm just going to keep asking questions. Has anybody had any experiences of compliance issues since the 25th of May? Are you all being inundated with stuff from ICANN Compliance or have they left you alone? I mean is - has anything happened there?

Graeme Bunton: Good question. Reg?

Reg Levy: This is Reg Levy from Tucows. (Inam) prior to GDPR was getting approximately five Whois and accuracy complaints a day. We received zero since the 23rd of May. There are a couple that are still ongoing. We do not believe that having started it before GDPR grandfathered in a right to any data,

so we're pushing back on them and saying, you know, we can confirm that what you provide is or is not correct but we're not going to give you any raw data unless you have the data subject's permission.

I expect we'll get a different compliance notice about that situation. Tucows - sorry, open SRS, the other credential that we have probably gets three to four a month and we received our first yesterday. So I have not had a chance to personally review it. My team is holding it pending my review and I'm not sure how exactly we're going to start responding to that, but to respond to your question.

Michele Neylon: Thanks, Reg. That's very helpful because this was one of the things that Jamie and co were hammering on about in GDD, which left me completely confused. So I just - that was helpful. Thanks.

Paul Diaz: Dirk?

Dirk Krischenowski: So Dirk Krischenowski from .Berlin. We had a compliance request from ICANN shortly after the 25th and it was about the topic that we didn't put the sentence with the piece contact the RDDS the registrar first into the email or anywhere in our words display and we explained to them that RDDS is not what the GDPR wants to have there because they want to have a easy-to-understand language how to get access, and RDDS is something 99.99% of all registrants even don't know and they even don't know what to do. That was three weeks ago compliance request and we didn't heard anything since then.

Paul Diaz: Steph?

Stephanie Duchesneau: It's like a rare moment but I want to give like a happy shout to ICANN because we saw like an informal where there were a couple of gaps between what we'd done as of May 25th and the formal spec. Like we got an informal inquiry via our account manager about the sort of timeline and what

our plans were around it rather than diving into compliance inquiries. So I was actually sort of appreciative to see that and how it was being managed.

Michele Neylon: For the record, Stephanie said something nice about ICANN.

Paul Diaz: Anybody?

Graeme Bunton: Is everybody fully satisfied with everything we've talked about so far, where we're all at on GDPR? Does anybody have any other questions or comments we want to raise? I'm happy to also hear from someone who is not one of the usual suspects.

Michele Neylon: Sorry, I was just going to say if we're going to talk about council because obviously we've - on council we have to do with this EPDP chartering thing so if anybody - if that's pertinent here.

Graeme Bunton: Maybe. I just want to see if we have any other AOB GDPR-related, you know, just it's a complicated time. There's lots happening very quickly and I want to make sure everybody's up to speed, understands the issues we've talked about and if you've got any gaps in your knowledge that you can know who to talk to to fill those in. Jonathan, GDPR is a European privacy law.

Jonathan Robinson: I'm not sure if I qualify as one of the usual suspects or not. But I just wanted to check that we sort of agreed on a format there. It sounded like we're going to run with a table of outstanding actions together with a set of open questions. Is that how we think - is that the sort of shared document we think we've settled on? It does sound like it but just checking in that that's our working document that we're going to actually work at? So actions, deadlines, and questions.

Graeme Bunton: Yes. Open issues.

Stephanie Duchesneau: There might be a third thing, which is what Michele was alluded to, just like some information-sharing mechanism or consistency for what we're doing. I don't - maybe the ship has sailed and we don't need it at this stage but - we do, okay.

Michele Neylon: I mean, Stephanie, it's because we get the kind of thing where we are - I'm onboarding some new staff at the moment and trying to explain to them well this is how you do it over here but over here you have to use something different, and while these guys have decided to remove all those wheels - and oh I'm sorry I can't help you anymore. You know, it's - any information we have is helpful, even if it's informal and just like hey we're thinking of doing this, we're thinking of doing that. It's just a little bit more information really.

Graeme Bunton: Marc?

Marc Anderson: Thanks, Graeme, this is Marc. A couple times this week I've heard reference that registrars are working on a document that maybe has to do with, you know, standardized - standardizing language or best practices language around some of the things that registrars are doing. I was just wondering if you had like maybe an update on exactly what that's going to get into and when it might be available.

Graeme Bunton: Thanks, Marc. So I don't think it's necessarily best practices. What it's aiming to be is sort of an educational piece, like a one or two pager for people who are not, you know, contracted parties about how to request access to data, non-public Whois data from registrars. So here is I think (James) describes it as a series of steps. It's a nice analogy. Here is the sort of base. You need to think about legitimate purpose under GDPR. Do you have that? Okay. Here is the steps that you can go through in this sort of series of escalations and a process flow. Yes maybe it will include you registries in there too. James?

James Bladel: Yes thanks. James speaking. So it is more of just kind of an educational piece but I think what we're seeing and what we're hearing at this meeting is

a lot of confusion and folks don't know where to start, and some of the things that we're seeing are going to the wrong teams, the wrong channels, and trying to outline all of the tools in the toolkit that currently exist under the temp spec and the RAA that have already been in place that could be used to gain access to non-public data for legitimate purposes.

It's written from a registrar perspective. It can be modified to expand to include registry perspective and then I think we should all kind of put it out there and say, you know, if you're confused, start here, you know. Don't just give up on step one. There's lots of other options.

Marc Anderson: This is Marc. Thank you. I think that's great. And exactly to your point, I mean we've heard lots of times this week about how there's just, you know, confusion out there on where to go so, you know, if something like this can help that, maybe build some bridges, you know, great.

Graeme Bunton: All right. We've got about eight minutes left. I think we covered a whole bunch of good pieces there and we've got some good takeaways to go and get done. So that I think is useful. I don't know that we want to get into the council deliberations in eight minutes. Probably most of us are sick to death of figuring out that scope discussion. And I'm sure our councilors want to hear more about it too.

Do we have any other last call for AOB GDPR-related bits and bobs?
Michele, you can't help yourself.

Michele Neylon: No, I can't. You know, no just something that you floated on our list about a week or so back or whatever it is, just, you know, making sure that people are kind of tracking what they're getting and what they're not getting in terms of like some data. And I think the other thing you were pushing for was making sure that people were actually responding, even if the response was to say, no you can't have it. So.

Graeme Bunton: Sure. Thanks, Michele. Yes, I was encouraging that in the SG room the other day. I'm sure registries are too. Be judicious and sensible and reasonable when dealing with access requests because it makes all of our lives easier in this space. Paul, do you have anything else to add? We could give people five minutes back. Do you want to? Do you need to? Do you have questions or bits? Please.

Donna Austin: Okay thanks. So I understand there's a little bit of concern that council didn't get as far along in its work this week. So in terms of the schedule what we're looking at is trying to be in a position to finalize the charter on the 9th of July. So that means a fair amount of work in the interim to get to that point. We still have I think a fair amount of contention to come within the scoping. We still haven't got to a good point on that.

On composition, I think we are in a reasonable place on that. And to that end, I think what we're - what the request will be is three members from each of our stakeholder groups, with three backups. So that's kind of what we're looking at.

The other thing is in terms of leadership, I think we've agreed that the council will select the chair for this effort and that we're looking at potential - well I think we're in agreement that we will - the council will put out an expression of interest for the chair position. We still haven't agree how we're going to select that, whether we'll use the Standing Selection Committee of the council or whether we'll do it as the council as a whole or leadership, but that's (unintelligible) as well.

There is a wrap-up session of the council this afternoon. Unfortunately guys I can't make it. I've got to go to Planning Committee meeting. To the extent that it's possible to push this afternoon to perhaps get some agreement that we can move forward on the leadership and the composition, because of the lead time that's associated with those two efforts I think it might be helpful. So I'm not sure what kind of pushback we'll get back because it's - it would be

perceived that we haven't finalized the charter, so how can we move forward with that?

But I think they're the two items that have a considerable amount of lead time that we're aware of. So if we can - if the council can make an in-principle decision to start that process, I think it would be helpful. I think what we heard in terms of leadership that we should, you know, potentially look to ex-board members. That might be a good place to start.

We want neutrality and independence. I don't know that we're agreed on whether that means that we have to get somebody outside of - that doesn't have skin in the game in some way but that could be a - I mean that's a double-edged sword. You want someone that has some understanding of ICANN processes and also the subject matter, so that's going to be hard to get somebody that, you know, doesn't necessarily have skin in the game.

So that's at a very high level where we are. And I know it doesn't look like we've made a lot of progress this week but I think we have. We've had some really good discussion. This hasn't been easy for us either. We've never kicked off an EPDP. We didn't know what a temp spec was, you know, like everybody else, three or four weeks ago.

So what we're trying to do is to make sure that we've got everything in good shape before this ever kicks off because we - what we're trying to avoid is a situation where the working group has to come back to council and seek clarification on stuff. So we're trying to be as thorough as we can upfront so that there is a good window for the working group itself to just get down and get the work done. So that's my kind of overview of the council, if you've got anything further.

Paul Diaz: Hands went up really fast so when I looked up I don't know who was first. I'll just turn to my right. Jeff, Marc, and then Jonathan.

Jeff Neuman: Jeff Neuman. Thanks, Donna, and thanks to all the councilors for - I know this has been a heck of a meeting for you guys just to sit down all day and talk about GDPR. Best - if you had a best guess as far as timing of when we should start thinking about appointing our reps and starting that whole process, what would you think in terms of that timing?

Donna Austin: Now.

Michele Neylon: Should we say yesterday or the day before?

Donna Austin: Jeff, I think there's a second part to your question. I don't know at what point we anticipate that the working group itself will be set up, so the lead time question is important. You know, I think ALAC says it takes them a month to get the people together. You know, we need to try to truncate that in some way, I think. But I think it's going to be really important for the council to get that leadership issue sorted out and we haven't worked out what mechanism we're going to use for that yet. But yes, so I think that's the second part of your question.

The timeline we're currently looking at is that an initial report has to come out by Barcelona, so that's - if you're working backwards, that puts a fair amount of pressure. There is an expectation that there will be at least one face-to-face meeting, whether that's for a week or two weeks, I don't know, but, you know, that's - depends on what - how that workload falls out.

Paul Diaz: Okay. Marc?

Marc Anderson: Just to echo what Jeff said, you know, thank you for the update and all the work the councilors have gone through this week. I know that's got to be exhausting. My question is I guess are there specific areas that the councilors would appreciate feedback from contracted parties in the scoping? You know, I know it's, you know, scoping's been, you know, particularly challenging and

if there are any areas that you want to flag for us either now or offline, that would be great.

Donna Austin: Good question, Marc. I think what's outstanding from perspective is we've identified what's in scope. We haven't identified what's outside scope. So we still have that, you know, we haven't identified what we think is picket fence and, you know, SLAs is obviously one we think is outside. So we haven't - I think we're in reasonable shape about what's inside but we haven't identified in the scope what's outside and we probably need to make sure we cover that.

Michele Neylon: It's Michele. Just another thing as well, just in terms of the people doing this, from the registry side you actually have quite a few people to choose from I think but the main thing is that whoever you're putting forward needs to be as non-confrontational as possible. I know most of you know this but I'm just - please, because otherwise it's just not going to help.

Paul Diaz: Understood. And, Jonathan, you're going to get the last word.

Jonathan Robinson: Two quick things then. First, echo thanks. It does sound like, Donna, it's been tremendous work. So the two things are, and I'm sorry if these are repetitious, but you talked about the leadership issue. Is that anything other than the chair? Is that in addition to the chair? And second, you talked about the face-to-face. Is that - I mean, A, it sounds like at the moment that's just prospectively one big getting together. Is ICANN committed to funding that?

Donna Austin: So we - because we haven't agreed on the scope, we haven't really got any further down the path in identifying what resources are required. ICANN has committed to providing a budget but it needs to be reasonable. So one of the things where we've tried to rein in the cost is on the composition, and the current numbers are at 36. So, you know, that's - we think that's pretty reasonable. So, Jonathan, I don't know the answer to that question.

On the leadership, I think what we've agreed is that the council will select the chair and then the working group itself will select two vice chairs.

Michele Neylon: And just on the face-to-face thing, I think what - some of the conversations we had were in order for this to get done in time, face-to-face would be needed. I think the one week thing, I don't know where that came from. Is that you? Donna, is that your idea of having them sit together in a room for two weeks?

Donna Austin: Yes, that's me being funny.

Michele Neylon: Okay that's disturbing, but that's okay. She wants to scare the hell out of everybody. But the thing is that anybody who's doing this will need to make a very significant time commitment so I do think that does unfortunately reduce the pool. And on the registrar side, Graeme could talk to you for hours about this, but we have a very limited slate of people available and if there's three members plus three alternates, it's going to be quite tough.

Paul Diaz: Donna? And then we're going to have to wrap.

Donna Austin: Yes, thanks, Paul. I know we're getting tight on time here. One of the things that we've been discussing with the scope is that this is a two-phase effort. So the first phase is about confirming the temporary spec or not, but also information gathering for a second phase that would look at the accreditation access model. And I'm looking at Keith because this is kind of how he was phrasing it.

So while there is an understanding that we will need concentrated input for Barcelona to get that first phase done, there's going to be a second phase to this. I think we can, with some certainty, we can say there's going to be a second phase to this. In my mind it should be done in the same PDP. Otherwise we're going to waste time doing the setup, and I think if we do it within this PDP that provides some level of comfort to the IPC and BC that

we're actually moving forward and not trying to stall in any way. Keith, I don't know if you've got anything to add on that, so.

Paul Diaz: Thank you, Donna. Behind you, James, and seriously the last word.

James Bladel: Thanks. James speaking. And just picking up one speaker back regarding the staffing and finding the right folks, you know, one option might be to, you know, choose three members from each of the two stakeholder groups but we could probably share alternates to some extent, given that there's a lot of overlap and that might help us kind of fill out our rosters, if you will, if some of the vertically integrated folks can be an alternate on both sides of the fence and step in wherever, you know, somebody drops off. Thanks.

Paul Diaz: Very good idea. All right everybody. We're a few minutes over. Thank you for the time today. I hope this is useful. Sorry for the confusion at the beginning. We'll be more diligent in the future about the scheduling, make sure things like this are closed. Good luck with the rest of the time. Safe travels home for all of you and we're done. Thank you.

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