

**ICANN  
Transcription ICANN Barcelona  
GNSO – EPDP Team Face to Face Meeting Session 5  
Monday 20 October 2018 at 1700 CEST**

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Gina Bartlett: So, we're going to go ahead and start so, was there another modification (Marika)? So, Farzaneh can I come back to you? Did you – you went away at the break to check in with your colleagues, an update?

Farzaneh Badii: Yes, Farzaneh Badii, NCSG, so, we discussed among ourselves and we believe that we will be happy with this language to state if the parenthesis will be removed. So, identifiable to the registrar and registry and if applicable ICANN that whole parenthesis we want it to be removed.

Gina Bartlett: And can you say why?

Farzaneh Badii: We don't know – we are not sure about the word identifiable and its problematic word that later on could have implications for domain registrant.

Gina Bartlett: Later on could have what?

Farzaneh Badii: To cause them collect additional data for – from the domain name registrant. And Milton is suggesting to if we cannot get rid of the parenthesis then we can replace identifiable to contactable by.

Gina Bartlett: Any – so, the proposal is to change identifiable to contactable by, does that raise any concern for anybody.

Farzaneh Badii: First to delete it.

Gina Bartlett: First is to delete it, yes, go ahead (Matt).

Matt Serlin: Yes, it's (Matt) for the record, I think the consensus for the contracted parties is we have to take that back to our stakeholder groups to get feedback and come back to the group on it. I don't think we're in a position to.

Gina Bartlett: To either delete or change?

Matt Serlin: To delete specifically, yes.

Gina Bartlett: To delete, okay, so, what would that involve? Would that be like not today? Is that essentially? Go ahead (Margie).

Margie Milam: I think we agree with the proposal to delete the parenthetical. Delete it, yes.

Gina Bartlett: (Margie) is saying that she would propose – she would agree to delete. So, I was just discussing with staff whether or not we go ahead and then note it for the initial report and (Marika) said what we could do since we are meeting again, is that we could note that it potentially might be struck and then that would give the contractor parties some time over the next day or two to consult with each other and then we would come back to that piece. Is that okay? Yes, (Marika).

Marika Konings: Yes, so, this (Marika), so, what we can do now is kind of strike it through so, it's not deleted yet but upon your confirmation either it gets removed or it needs to be further discussed. So, at least that may be a way.

Gina Bartlett: Stephanie.

Stephanie Perrin: Stephanie Perrin, if we could change identifiable to contactable right now since we seem to have agreement on that and no? Oh, I thought I heard you guys say yes, okay.

Gina Bartlett: Thank you.

Stephanie Perrin: Nice try.

Gina Bartlett: Yes, thanks. Okay, oh (Christina).

Kristina Rosette: I think it's fine to, you know, strike it out and, you know, as long as it's clear – as long as it's not removed but I just wanted to flag the earliest time chance we're going to have to discuss it with our respective stakeholder groups is Tuesday. So, we're just really not going to have a chance before constituency day to flag it and have any meaningful discussion of it. So, just to kind of gauge expectations.

Kurt Pritz: This is (Kurt), I suppose the question for us is whether the collectable data set would change if this stays in or is removed. And I don't know if you can provide the contracted parties, I don't know if you can provide insight into that question.

Kristina Rosette: (Kurt), it's Kristina Rosette, the answer to that is also tied in to the question that Ahmer had raised about whether or not registries in particular want to include in the RDDS the data elements that they are collecting and validating for purposes of registration policy eligibility criteria, and there were a number of registries that came back to my inquiry and said yes, yes, yes, we

absolutely want to be able to do it. But I think Ahmer has now followed up with, you know, are they required to do it and I'm not privy to, you know, everybody's arrangement, so, I think that's a follow up question I need to raise anyway so, I think it's all linked together unfortunately.

Berry Cobb: Berry Cobb for the record, and I think when you go back to caucus with your groups, you know, one of the things we'd hoped to accomplish today was to actually drill down to the next level when we look at some of the processing activities under these purposes. So, it may be helpful when your meeting amongst yourselves to think about the processing activities that we've kind of generally defined, collection, transmission, disclosure and retention and be prepared to maybe have some answers around that as well, in addition, pardon me, in addition to the data elements that are being identified, thank you.

Gina Bartlett: Okay, so, thanks Berry, so, it sounds like this is a recommended purpose statement, we will strike the identifiable to the registrar and registry and if applicable ICANN but we'll be able to see it and then it looks like the team is meeting on Wednesday afternoon again, you have a face to face, so, if you all could consult with your colleagues you said on Tuesday then we can pick that back up on Wednesday. So, can I move on to the next page of this purpose and talk about the data processing, which Berry has been waiting all day for us to get there.

So, there's a couple of questions that are going to go before you so, the first one is under transmission of registration date from registrar to registry. Is everybody with me there? And the small group identified that the purpose a small team agreed that – sorry – the legal basis is 61B only for the domain name and name servers. And the rest is 61F however, the BC and SSAC believe that if 61B, so, we want to just document who else believes its 61B and this if for the purposes of the initial report. Is everybody tracking? Does that make sense?

Man: Believes that what is 61B?

Gina Bartlett: No problem, okay, so, I'm under transmission on lawfulness of processing test, go ahead.

Berry Cobb: Berry Cobb for the record, let's maybe just start real quick at the beginning with collection, right now what we have documented in the report for collection and its statement there and then the lawful basis is being identified as 61B is there anybody that objects that that wouldn't be a 61B basis for processing the – for collecting the data.

Man: Which purpose are we talking about?

Berry Cobb: Purpose A.

Man: Thank you.

Gina Bartlett: Purpose A, and just to remind you, we're not having a long dialogue on this, we're just noting who is in opposition. Sorry, it's an opposition only.

Alan Woods: It's more of -- oh, Alan Woods -- it's more clarification, I think this is one of those perfect expectations that where we need somebody who is an independent third party legal expert because as far as I'm concerned, 61B does not apply to somebody who does not have a contract with the registrant and I do not as a registry have a direct contact with the registrant, therefore, 61B does not apply to me. And therefore, it would be a 60S and we keep going around and around, the registrar is definitely at a 61B but I would love to get clarity from a legal standpoint on that.

Gina Bartlett: That's why we're noting it because we are going to get legal clarity. So, the whole point of this is for the initial report we're going to note where people think it is and where people have questions and then it's going to be

answered. That's the whole idea for all the legal basis for all the purposes, yes.

Alan Woods: Okay.

Gina Bartlett: So, the question on the table is we just want to note for the initial report for the collection of registration data for purpose a, can you please let us know if you do not think it's a 61B for the legal basis?

Berry Cobb: So, Berry Cobb again, and to be clear and I think to pick up on what Alan was stating, when we're also defining the responsible party and the role that they're playing and I think Alan you would probably agree that it would be a 61B for registrars because they do have the agreement with the registrant and in fact, for this processing activity of collection we would remove the registries as playing a role here because they aren't collecting the data, they'll only be receiving it if it's transferred to them from the registrars. Correct?

Alan Woods: Alan Woods here, no, because the receipt of the data from the registrar is a collection by the registry.

Berry Cobb: So, Berry Cobb again, why wouldn't that be the – why wouldn't that fall under the transmission processing activity as opposed to collection?

Alan Woods: I'm sorry, I'm missing the point, transmission is a separate idea, I mean there is a transmission involved but our collection involves the transmission so, they are different things. So, transmission you have to think of things like what is the transfer, you know, is it outside of the EEA, is there EEA data in that, whereas the collection is just do you have a purpose to collect that data. I'm just saying that the point was that we wouldn't be collecting data at the registry, no, we are collecting data it's just that we're not collecting it directly from the registrant.

Gina Bartlett: Alan G. Sorry, Hadia could you please say your name and speak into the mic.

Hadia Elminiawi: Hadia Elminiawi for the record, so, basically, you're saying that you're not collecting data or you're saying you are collecting data but through transmissions?

Alan Woods: Yes, the result of the transmission is our collection. So, we collect the data from the registrar who transfers it to us.

Hadia Elminiawi: So, this could fall under the processing activity which is transmission of registration data from registrar to registry.

Alan Woods: Both.

Berry Cobb: All right, we're now saying that for every transmission we potentially need two different legal purposes, that is the sending of it and the receiving it may be different? That's what I think was what Alan was saying. Okay, we're looking at the second item on page something, the second processing item which is transmission of registration data from registrar to registry. And we're saying 6.1 what? Under what rule is it being done and I think Alan Woods is saying that for every transmission we need two answers, the grounds under which descent and the grounds under which is received, which is nothing we've ever thought of before in this meeting here, at least nothing I have thought of before.

Gina Bartlett: I think (Thomas) wants to get in on this, go ahead (Thomas).

Thomas Rickert: Thanks very much, I think we might need to tidy up things a little bit. Probably Alan Woods is following the school of thought whereby the registry is entitled to all the data including the transmission to the registry based on 61F. And actually, there are some registries who are of that opinion. I guess the way that we have structured our discussion so far would be as follows,

you have the registrar who has the contract with the registrant. And therefore, the registrant is collecting the registration data, the registrant data in particular, from the registrant according to 61B. And then the question is whether the transfer from the registrar to the registry is also covered by 61B. And I for one am of the opinion that the registry does not need to know who the registrant is to perform the contact.

And therefore, they might have a legitimate interest and request that data based on 61F, but not according to 61B. So, this is probably where the disconnect lies. However, talking about responsibility, Alan is spot on that the registry requires the registrar to collect certain data elements because both the registry and their policies and in their contracts, particularly the RRA, and ICANN requests the processing of data in a certain fashion, which is why the collection by the registrar although only collected to be stored by the registrar in the first place, can be under the joint responsibility of the registry and the registrar and depending on how you look at it, also on ICANN.

So, if you are a controller for certain processing activities, and I think that the registry are joint controllers for the collection of the registration data, it's not required for a controller to obtain all the data that they require third parties to collect. So, in summary, I think what we – at least what I thought we had previously agreed on is that the collection by the registrar is covered by 61B, the transmission from the registrar to registry is covered by 61F unless we're talking about the domain and length of the data which would be 61B or where special eligibility requirements are present where the registree needs to validate that would be covered by 61B as well.

And finally, the responsibility question would be answered in a fashion that these are things that are jointly controlled directly by the registrars and potentially ICANN since ICANN requires the way in which the data has to be processed.

So, I hope that's it, I keep my mic open for another few seconds to answer questions.

Gina Bartlett: So, I just so that we're on the same page, what (Thomas) is proposing is that the registry's joint controller would come out of the collection and it would be in transmission and for the domain name and name server it would be a 61B and for the other activities under transmission it would be a 61F. I think that's where we're at, (Christina), (James), (Margie) and then I'll come back to you Alan.

Kristina Rosette: Skip me.

James Bladel: I kind of lost the handle here, I think that we were talking about the different purposes you were saying Alan, I think you made the comment that we may have a different purpose for the sender versus the recipient of data and I would say I think it's dependent on which data field we're talking about. Because for example, some of the data may actually be necessary to – for the domain name to resolve while some of the data may, you know, the data that qualifies as personal information wouldn't so, we don't need to flag individual fields here do we (Ellen)? Well, let's just move on. I think it's getting late.

Gina Bartlett: Thanks (James), I have (Margie), Alan G. and Hadia.

Margie Milam: Yes, I thought we started this conversation with not debating this issue as we've gone through this over and over again and I don't, you know, we were going to wait until we got the legal analysis to make the choice. But I just think that there's no point in arguing over which section applies, just continue the process which is, you know, who else wants to be listed as part of supporting it.

Gina Bartlett: Right, I think that the – that was where we started out but I think Berry wanted clarity that for collection that we were clear on the responsible party and so, it

was slightly different than where I started us off and so, I think the proposal on the table right now is under collection that for the responsible parties that the registries would be dropped just for collection purposes, and 61B would stand for the legal basis unless we hear something different. I think that's where we're at. Hadia, oh okay, Alan G.

Alan Greenberg: All right, Alan Greenburg, I'm still not clear on whether for a single transfer of a single element there may be a different reason for the sending versus the receiving which maybe deemed as collection and I don't think I want to debate it here until we get someone who knows more about what they're talking about then I do certainly. However, I would like clarity and again, it's something that we've raised many times, when we're talking about transfer are we talking about moving it from one party to another or across boundaries? Because transfer across boundaries has different rules, I'm not sure if it's either/or what it is here.

Berry Cobb: So, Berry Cobb here, and before we continue on in the queue and I guess this is why it's important that, you know, (Thomas) and Farzaneh as well, the whole premise of this workbook was based off of that original spreadsheet that they built the day before we met in LA and it was very specific as we walked through the different tabs that all of those data elements were being identified and that was to be very precise as to what's happening to this data which as it turns out, at least from my interpretation, does follow back into this data flow map that Stephanie has been talking about.

And so, I think this is a good conversation that we need to have because it applies to all of our workbooks and we need to be very clear and have proper definition about what it is we're talking about or we'll never get to the end line here. And so, I think (Thomas), it should help that you would intervene again to make it clear for us to better understand, especially as Alan puts it because in doing purpose E, and I hate to bring up another purpose right now, but that's probably one of the more solidified purposes and processing activities and data elements of all of our workbooks, or it's the most mature and I came

across the same question myself is if, you know, if the data is collected from the registrant at the registrar and then they were to make an escrow deposit to the escrow provider, to me that just seemed like transmission.

But as Alan pointed out earlier, that perhaps it even needs to be more granular that yes, there's transmission going on but then there's also a collection going on and if that's the case, we need to understand that now because this list or this table becomes much longer.

Gina Bartlett: Stephanie, I'll add you to the thread, I have (Thomas), Alex, Kavouss and Stephanie oh and Benedict, sorry.

Thomas Rickert: Thank you, I guess Berry is right, you can certainly take things to a greater and greater level of granularity but as far as I'm concerned, I would be satisfied with collection by the registrar and then the onward transfer to the registry is the same processing activity. Particularly if we end up having both the registry and the registrar at least being controllers for the collection of the registrar level.

Because then, you know, the registry would be responsible for that as well, it would be explained to the registrant name holder that these two parties are controllers and potentially ICANN as a third party as well, for the collection and that this data will then travel. So, I think I would be okay without contributing another processing step that we explained and on Alan's point, Alan Greenburg that is, with boundaries, I'm not sure whether you were talking about territory or international transfers and just to put that into perspective, yes, we do need to have a justification for data transfers from one entity to the other and the justification of international transfer is yet another step that needs to be added to it.

But I would keep that distinct and as a general point that wherever data transfers outside the EU, we would then need to have additional safe guards

according to GDPR to legitimize those international transfers. But I wouldn't complicate our discussion at this stage with this additional question.

Gina Bartlett: Okay, thank you (Thomas), you know, I didn't – I thought I called on you Hadia and you said no, so, I'll go to Hadia and then I'll pick you up Alex.

Hadia Elminiawi: Okay so, basically, I thought that we agreed long ago that different stakeholders would have different purposes, lawful purposes for different local buyers for different purposes. And this is just one example of that, and if we talk about the collection of registration data from the registrant to the – from the registrant, it's done by the registrar and it's a 61B for the registrants. But if we talk from a registry perspective, then Alan wants to refer to this as a collection as well, it's done through transfer, I'm fine with that. But then it's again for the registries, it will be a 61F.

And I think there's nothing wrong with having, you know, a processing activity with a different lawful base depending on the stake holder that's making that request. So, I'm not sure what are we really debating here or yes, I'm not clear on that.

Gina Bartlett: Okay, Alex.

Alex Deacon: Yes, hi, not too sure, it's been a while since I raised my card here but I think the one point that I just wanted to make quickly is in terms of ensuring this stop area is up to date and Rick I sent you an email about input from the IPC with regard to, you know, answering questions like add other as appropriate so, just take a look at your email and maybe in the next version you could update the doc to include where IPC feels the purposes should be set, or how they should be set.

Gina Bartlett: You mean purposes or other processing activities?

Alex Deacon: Sorry, the lawful basis.

Gina Bartlett: The lawful basis, oh so, you sent in where you – what IPC thinks so that it can just be incorporated?

Alex Deacon: Yes, it was in an email on October 10, it probably got buried.

Gina Bartlett: Okay.

(Marie): Okay, this is (Marie) and if I can just ask a question because indeed here the footnote of what we're asking others to weigh in is actually related to specific processing activity. So, for now I'll just go ahead and add IPC where we've made that footnote which I think is more relation to specific processing activity and not necessarily the overall purpose of lawful basis at the moment. But again, everyone should review those documents and then indicate if, you know, we missed somewhere that same statement and whether that needs to be added.

Gina Bartlett: Okay, so, I apologize for the way Kavouss, Stephanie and Benedict and then maybe I'll check in where we are on this collection piece.

Kavouss Arasteh: Small comments, Kavouss Arasteh, small comment made by Alan Greenburg, I think the transfer includes both, you could have transfer from one person to other person, transfer from one place to other place. So, we have to be quite clear what we mean by that. So, both of them, there's a chance it means convey or remove from one person to other person or convey it moves from one place to other place. Both of them are transfers, so, we have to be quite clear about transfer here, thank you.

Gina Bartlett: Go ahead Stephanie, thanks for waiting.

Stephanie Perrin: Thanks, Stephanie Perrin, at the risk of being fanatic here, I think we have to be very careful about not conflating once again the purpose of the data processing activity with the legal basis for the data processing activity. So,

for instance, when a registrar transfers data to a registry, that purpose hopefully is the same on each end, they're transferring the data to put the name into play and to service and to activation. The first guy is doing it under a contract because he has a contract, the second guy is doing it under a 61F I would say because the registrant's understanding is that the name will be put into play and we establish that in our list that we were fighting about before the recent break.

So, nothing untoward about that, that's just the way it works. However, Alan Greenburg raised a good question, I know he said he didn't want it answered in this company, but I'm going to try and answer it anyway, because I don't think it should be left dangling. If that whether you call it a process or a co-controller, and I think the jury is out on that in terms of the registry role in this function, regardless, when they receive the data they had better be processing it for the same initially stated purpose. And if not, then they are required to seek consent of the data subject because they're processing it for a new purpose that wasn't foreseen originally.

This is quite frankly in my view, correct me if I'm wrong IPC colleagues, why everybody is pretty antsy about making sure all their purposes get listed originally so that if it lands somewhere and you want to use, you have an enumerated purpose. So, absolutely when the registry gets it, they don't get to free-lance, they are data – controllers are processors subject to the same JDPR and they can't use it for any purpose other than what it was sent it to them for, thanks.

Gina Bartlett: Thanks Stephanie, okay Benedict. Is that okay? Yes, go ahead Alex.

Alex Deacon: Yes, Stephanie I agree, and I think another thing that I think has been dangling is the work that we will have to do at some point to notify the users of how this data is going to be used, right? During the registration and perhaps even renewal and so, I think, you know, being specific in regard to how all of the purposes if you will, and all of the reasons and all of the things,

the ways this data may be used is important because we will need to translate this text into something probably more user friendly for the user. And specific to comply with GDPR so they know what they're getting into.

Gina Bartlett: Thanks Alex. Go ahead Benedict.

Benedict Ardis: Initially I was a bit worried – Benedict Ardis by the way – I was initially a bit worried about this kind of explosion of teasing out all of these processing activities, but I think it's nice to see some of the logic, one of the reasons I articulate this danger of thinking about needing lawful basis on both sort of recipient and provider of data is that because we've sort of been a bit hand wavy about who's the controller and so, I'd argue that the processor doesn't need a lawful basis because they're doing what they're told to do in the GDPR model. So, it might be an idea for this APA2, which is the transmission of registration data from registrar up to registry, that's not a collection that's a transfer, and to have the registries as joint controller just as the registrars are joint controller in the APA1.

So, we lose the registrars from that second processing activity is my proposal. Thank you.

Gina Bartlett: I'm sorry Benedict, I want to make sure that I heard what you said, so, you're saying under transmission to remove the registrars as a joint controller?

Benedict Ardis: Yes, I think the registrars are acting as a processor and they're being told to transfer the data to registry and therefore, they don't need a lawful basis there, the registry needs to be acting on having a lawful basis.

Gina Bartlett: Okay, thanks.

Benedict Ardis: Sort of mirrored with PA1, so, PA1 the registrars are the joint controllers and the second part the registries are the joint controllers. Just logically.

Gina Bartlett: Go ahead Alan.

Alan Woods: Yes, thank you, Alan Woods, for the record. I'm going to leave that one to my registrar colleagues because I'm not too sure on that one, I have my own thoughts, I don't agree but that's fine, I mean, I agree with your concept of removing the processor but I don't agree that they're a processor. Can I just ask the question, sorry, my point was why are the registries, why are we removed as a controller from PA1? Because we are, we are also a joint controller in the collection.

Berry Cobb: Berry Cobb, I think it was only a suggestion, it's not definite but what I would I guess to really carry on with what Benedict had edited in the Google doc for the legal lawful basis memo is the concept that he was basically describing is that row 1, APA1 would actually perhaps split into two and that ICANN would be a joint controller with registrars for 61B because they're collecting the data from the registrant and then as you had mentioned Alan, that then there would be a, you know, a secondary or a split row where ICANN would be a joint controller and registries would be a joint controller and then that would be a 61F.

Alan Woods: So, I thank you for that but I respectfully disagree with that, we're still all joint controllers we just have different basis. There's not, I don't think you parsed it that way, we're all joint controllers it's just we have different legal basis for the processing of that particular data.  
I mean, I just think what you're creating there is this concept that there's two streams, joint controllers here, joint controllers here, when in reality the three of us are joint controllers, it's just we have different legal basis.

Gina Bartlett: That's what I think he's trying to say, maybe it's not coming through, I think Berry was trying to say that he agrees with that.

Alan Woods: Apologies, it's 4 in Saturday is probably my reason here.

Gina Bartlett: It is? I had (Emily) next.

Emily Taylor: Thank you, to Benedict's suggestion, and having just quickly checked with (James) and (Matt) here, we're pretty comfortable being relegated to the processor in APA2. I know Alan disagrees, this has been the subject of a very long conversation between us and respectfully, if we are doing something as a registrar because we're told to do it, which we not otherwise do, then a process is it. Processors as we know under the GDPR still have obligations, they still have potential liability so, respectfully, I would agree with Benedict's proposal to put registrars as processors for APA2.

Quite comfortable with being joint controllers in APA1 because obviously, we have a contract with the registrants and we need that data to fulfill the contract.

Gina Bartlett: (James) and then I'm going to.

James Bladel: Yes, we need to confer I think with our legal folks as well, but I tend to agree Alan, I think you have the gentleman sitting to your right has 137 million pieces of evidence why – left my right – sorry, your left my right, on why this is something that is being asked of us that is not necessarily on the critical path to fulfillment of our contract with a registrant and I think we've maintained since going back to the development of the eco mode and (Thomas) is on the phone is that, we will transmit all of that extra data at the request of the registry, they provide the justification and we would do so in the role of a processor not a controller, thank you.

Gina Bartlett: Berry's got a question – oh, I'm sorry.

Man: So, just real quick, what we just talked about for the last two and a half minutes is conceptual but in terms of this specific purpose it was always about just making the domain name resolve and work as we defined and so, again, this layer of precision I think is required what is necessary for the

domain name to resolve or exactly for what the purpose statement we just refined. If there is other data that a registry is requiring registrars to collect, then we need to ask a question is it still fit for purpose for this purpose statement and if it's not, then perhaps it's just really a registry purpose and we shouldn't even need to talk about it here because it's not an ICANN purpose.

Gina Bartlett: People check your tags and confirm if you want them up or not, Benedict and – so, I'm going to go to (Kurt) and then I'm going to see if I can check in where we're at so we can keep moving. Okay, let me see if I can summarize where I think we are, so, for purpose a, under the collection the responsible party of ICANN and the registrars is joint controllers, the lawful basis is 61B.

The registries are joint controllers but they're legal basis is 61F. Is there anyone that disagrees with that so we can document it for the initial report? Okay, then I'm moving to transmission and for transmission of registration data from registrar to registry for the responsible party I heard that registrars are now going to be processors, ICANN is a joint controller with the registries, so, for the legal basis, it's 61B for the domain name and the name servers. Is there anyone and all of the other data are 61F, is there someone – anyone who doesn't agree with that? Mark. Oh, we already know that the business BC and SSAC do not and IPC do not support the 61F, they believe it should be 61B.

Marc Anderson: Well, also in addition, in the case of registries that have pre-conditions such as dot bank or dot lawyer, the – okay, well it was mentioned earlier, (Thomas) mentioned it a few minutes ago so I just wanted to bring it up again.

Gina Bartlett: We're sticking with purpose a, so, what I'm asking for now is to register differing viewpoints on the legal basis. Alan G can you say what yours is?

Alan Greenberg: No, but I would like to understand the rationale for the B, C and sect to believe that it's a different legal purpose.

Gina Bartlett: Okay.

Alan Greenberg: Hard for me to take this cold.

Gina Bartlett: Okay.

Alan Greenberg: And have an opinion.

Gina Bartlett: Benedict were you going to get in on the legal basis? Go ahead, and then I'll invite the SSAC, the BC or the IPC to explain.

Benedict Ardis: That's not a correct statement for that position, what's just been scrolled down to.

Gina Bartlett: We can't hear you Benedict.

Benedict Ardis: Just take SAC off that little bit there please where it says SAC, it's quite the opposite, there's no need for name servers to be considered to be personal information so, there's no lawful basis required for the transmission of that data. The first paragraph of this box I'm super confused as to why that's needed.

Gina Bartlett: Okay.

Benedict Ardis: Scroll up, if we can have a quick look at that. Okay, so, yes, that line about yes 61B for certain data elements, domain name and name servers that's implying that those are personal data and we totally don't accept that, thank you.

Gina Bartlett: Go ahead (Marika) and then I'll come to you (Dan).

Marika Konings: Yes, this is (Marika), I think that started out initially as thinking there might be more data elements to that list and that's why legal basis was identified but I think from a star perspective we agree that in most cases domain names and name servers are not personal data although I know that there may be exceptions to that.

Gina Bartlett: Go ahead (Dan).

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Thanks, Dan Halloran from ICANN Org, just a quick note to reiterate something Trang put on the mailing list I think or in the chat a while ago, which is we're sitting here and I don't want like our silence – your asking does everyone agree can everyone live with that, we're operating under the temps spec and we're not participating in the policy discussions here but so, there's changes here from what's in the temp spec so, our silence here doesn't mean that ICANN Org or ICANN board is accepting what's here, we'll have to look at it.

Gina Bartlett: Thank you for that clarification.

Man: So, for this group should we ask ICANN this question then, if we have these data processing tests or different data processing, how do we pose that to ICANN? Because we're all kind of in this together, you know, making this stuff up.

Dan Halloran: Yes, I think best for us which has worked well is the – sorry, Dan Halloran for the record, the written questions that we've been doing our best to try and answer, I think we've answered a few dozen of them so far and we're happy to answer some more if they're specific questions the team has for ICANN Org or ICANN generally, ICANN board, we can take those back and try to get a written answer quickly.

Gina Bartlett: Okay so, the question I think on the table is for all the data under transmission of registration data from registrar to registry, is there anyone

else who thinks that the 61B beyond the business community and IPC? Alan G.

Alan Greenberg: I asked the question and we never got to the BC or IPC to answer the question. Benedict added in that he doesn't think the name servers and the domain name is personal information but I still didn't get the answer.

Gina Bartlett: Can (Margie) or (Mark) or somebody speak to the rationale from BC or IPC, either one?

Margie Milam: Yes, it's performance of the contract, the contract requires the information to be transferred to the registry and so, it doesn't seem in that case you would need to have a balancing test that would happen under F. So, I mean, I know people disagree as to whether or not the contract with the registrant works all the way up the chain, right? And that's what we're going to have legal analysis on, I disagree with (Thomas)'s viewpoint on that or whoever, maybe it was Alan, whoever said that it has to be a direct contract relationship between the registrant and the party. And so, that's where we're going to hopefully get some clarification on but that's the reason it's listed as a separate basis because I think that one still applies.

Gina Bartlett: Okay, did that help Alan?

Alan Greenberg: It helped confirm that I don't want to answer the question until I hear that legal analysis.

Gina Bartlett: Okay, I think that's all right. Okay, can we keep going then? Okay great, so, the next.

Kristina Rosette: Kristina Rosette, just to flag you asked does anyone else and I just wanted to flag that I believe there are some registry operators that include, well, pass through the RRA the requirement that the eligibility requirements for their TLVs go into the registration agreement, so, I just want – and that language is

in here I just wanted to make sure it didn't come out based on the discussion we were just having.

Man: Again, that's purpose N, we'll get to that when we get.

((Crosstalk))

Man: Oh, it's okay.

Gina Bartlett: (Christina), are you hearing that? That it's in purpose N?

Kristina Rosette: Yes, that's fine, I just wanted to – I just wanted to make sure that.

Gina Bartlett: It comes out of here.

Kristina Rosette: I just wanted to make sure that if it came out of here that we put a marker down that it needs to be in purpose N.

Gina Bartlett: Great, thanks for that clarification. Okay, should we move to disclosure? So, processing activity disclosure and (Caitlin) is going to frame it up, we don't think the legal basis that this applies but she'll frame it up.

Caitlin Tubergen: Thanks (Gina), this is (Caitlin Tubergen) from ICANN Org and to summarize what I believe was our conversation from earlier today, the processing activity of disclosure as related to purpose A is not applicable and that once we go through all of the purpose workbooks, Berry will work his magic and consolidate all of the data elements that we identify as relevant to a processing activity under a purpose. And then we will go through the disclosure under purpose B I believe, is that correct?

And so, it's not relevant for this purpose and so, I don't think we need to talk about a lawful basis for disclosure under purpose A, but we just want to confirm that that's everyone's understanding as well. And again, that's just

disclosure is not relevant for the purpose of establishing the rights of a registered name holder and a registered name.

Gina Bartlett: Is there anyone who does not agree with that? Mark.

Marc Anderson: This is Mark, I think there's a nuance there in that the processing activity of activation is publishing data in the DNS, that's a disclosure step. So, that's a little nuance I think but, you know, I think for this one there is some disclosure of data involved with this processing activity.

Woman: Can you just say again what you said? What type of disclosure is that?

Marc Anderson: Publication, like the allocation of a string in the DNS is publishing it, that's a disclosure activity. I mean, the question is are we agreeing that no, does no disclosure of data occur. And I don't think that's a true statement.

Gina Bartlett: Personal data?

((Crosstalk))

Woman 2: Sorry, to be.

Marc Anderson: I mean had we done an analysis here of every single field and whether it's personal or not, I mean, I don't think we've made that distinction, right?

Caitlin Tubergen: Mark, can you clarify what data you think is disclosed as part of purpose A? And then we can identify that now.

Marc Anderson: So, we're definitely disclosing the domain name and the name servers.

Berry Cobb: This is Berry, just and to put I guess an explanation point to what he's saying is when we get down to the data elements table, there's a column strictly for

disclosure and there would only be a one 1 marked for domain name and name server and I think.

Gina Bartlett: Okay so, I have Mark S, (Emily), (Thomas) and Alan G.

Marc Anderson: I think Berry's already covered what I was about to say, you know, we are waiting for the confirmation of, you know, if I affirmatively chose to name my name servers after my self and my domain name after myself, does that, I mean, you know, if I make those choices are they now PII that are suddenly protected differently from everyone else's name servers. We're still waiting on that judgement. Other than that, I don't think that any of this data is non-public that needs to be disclosed in order to light up the domain name.

Gina Bartlett: Thanks Mark, (Emily)?

Emily Taylor: I've now become quite confused so, you know, this is just off the reservation, off the reservation, I'm learning American, so, I think I wanted to pick up on Mark's point about publication of name, domain name and name servers in the DNS to make a domain name work. Regardless to Mark, of whether or not it isn't one of those edge cases where it's personally identifiable information, I believe that this is probably one area which we can all agree is necessary for the performance of the contract. And, you know, without those things going in the zone you don't have a domain name so, we can all just go home at that point.

So, no? We can't go home, we're not done yet.

((Crosstalk))

Man: That is my opinion as well but I do wait for further judgement on that.

Emily Taylor: So, I do agree with – while I do agree with Mark Anderson that this is technically a disclosure in a publication, of course it is, without it you can't

have a domain name so, it's absolutely necessary and, you know, so, we don't really have to worry about the sort of the more mar(Gina)l, more difficult things like 61F for example, in this context, in my opinion. I took the mic to try to help, I can see everyone is looking more confused as a result so, I'm just going to do this.

Gina Bartlett: Thanks (Emily), thank you. (Thomas), you're next.

Thomas Rickert: Thanks very much, I agree with the result of what's been said, but I think that I strongly disagree with the rationale that Mark put behind it. If you as a customer chose to provide your data so that you can get a domain name that actually results, that act doesn't make the domain name or the name servers non-PII, if they actually are PII.

So, the name of my law firm is Vicker.net, the domain name is PII because it establishes a direct link to me as a person and makes me out in the private through that data, same if I'm using that domain name in my name server, right? So, that's PII period. So, things are not complicated though because you need to disclose that data, publicize it so that it works. So, it is PII yes, we don't have to worry too much about it because that's required to perform the contract.

So, that disclosure is required to perform the contract, therefore it's covered by 61B. I think for the sake of completeness, it's worthwhile taking note of that, it's also important to include that in the record of processing activities and the information that goes to the registrant. But I think that we can safely move on because from a legal point of view, it's a no brainer, it's not problematic and those who try to argue it's not PII, I think let's get those concerns addressed because even if it is in the occasions where it is identified but makes a natural person identifiable, it's not a legal issue that we should concern ourselves with.

Gina Bartlett: Thanks (Thomas). I have Alan G., (James) and Alan W. and then maybe we'll check in because we're almost out of time.

Alan Greenberg: Thank you, for my information because I too am increasingly confused, if a domain name – if the name servers and your domain name is definitively not PII, do we need to even mention it as disclosure? You know, if for instance we knew no name servers or domain names were ever PII, let's live in an imaginary world, does that even have to get listed as disclosure if it's not PII or are we only talking about disclosure if it is PII?

Gina Bartlett: I have (James) and then you Alan, sorry.

James Bladel: Yes, I think I'm going back a couple of steps here, I think I'm agreeing with (Thomas), it can be personal information, it can be, not necessarily that they are, but they don't work if they're not published as in listed in the publicly and globally available DNS zone and goes for the name servers. I think we get ourselves kind of twisted around this question. I thought we put it to bed once and for all in Los Angeles but I think it's kind of rising from the grave, the only question I have is and I think we talked about it, we didn't really put it to bed is what if I list personal information of someone who is not the data subject in as the domain name, if I got Alan Woods as my domain name and he, you know, it's necessary to fulfill the contract with me and I've given consent obviously, by choosing that name, but he may not even be aware that he's the data subject of this transaction.

I think that's the only one that makes me a little uneasy but everything else is just kind of we're chasing the very, very long tale of some edge cases here, thanks.

Gina Bartlett: Alan W. and then we'll check in.

Alan Woods: Thank you, Alan Woods for the record, yes, I just wanted to kind of make a process point more than anything to help move this along, the reason why

we're bringing this up and the reason why we're putting this in here is because this is all to do with the transparency elements of the GDPR, I don't think this is controversial in any way, shape or form but we need to record it. And that's what we're doing here, recording it on a sheet, we don't need to have a full conversation about it, let's record it and move on as (Thomas) said because we're doing what we're expected to do here and nothing out of our data processing in minute detail is necessary.

Kurt Pritz: This is (Kurt), I think we have gone back and forth and if you could just scroll up a tiny bit where we were going to correct this I think is right. So, there's two batches of transmission information, one is at the top where the certain data elements are required for the domain name to resolve. So, that would be the domain name and the name servers and they might be personal information therefore, that would be a 61B transfer of data because it's required to make the domain name resolve.

There's a second type of transmission here, I think it's a disclosure but transmission here, where full registrant data can be requested by the registry, this is a 61F purpose because not required for the domain name to resolve. So, there's really two batches here, one where we have identified as (James) mentioned, the possibility that it is personal information and then secondly the full registrant data can be requested and just as – not as a footnote but I'll recognize that the BC and IPC want to claim that that's a 61B purpose. And then just to make things more complicated, I think (James) edge case, in (James) edge case, the registrant is the data controller with who's ever name he is registering and so, it gets the registrar not the data controller in that instance.

Gina Bartlett: So, thanks for that (Kurt), so, if we go to the disclosure of registration data, I think what I hear everyone saying is that for the legal basis, it would be a 61B for domain name and name server if it's personal data, right? Anyone who can't live with that? Anyone who wants that noted? Okay, then we're going to keep going so, retention, I don't think there's anything to be discussed on

retention unless someone wants to outline that they have a different viewpoint on the legal purpose.

Caitlin Tubergen: Hi everyone, this is (Caitlyn Tubergen) again, and I just wanted to note what the information in this box – keep going – I just wanted to note where the information and we populated into this box came from. And so, we have this as a 61F for the retention of the registration data by registrars and we have the period as one year which was agreed to in Los Angeles and that reflects the statute of limitations under the transfer dispute resolution policy, which is one year, one year after the life of the registration, excuse me. And that's so that in the event there is a dispute over an improper transfer of the registered name holder could reflect its rights in the name through that statute of limitations. And at the time, there was no disagreement about that.

Gina Bartlett: Okay so, (Mark)?

Marc Anderson: We had actually so, one year was the attempted compromise in LA but I did say I would go back and talk to my cybercrime people and find out what is the historical, you know, what is the trend for how old data has to be in investigations, and as it turned out, one year is really not sufficient in almost all cases, investigations include data that is older than one year. And we had provided that information, that update for purpose B, but it didn't get reflected here as well. So, just calling that out that there would be reason to re-examine the one-year compromise based on historical information about cyber investigations.

Gina Bartlett: Okay, I'm going to go to Berry and then (James) and then Alan.

Berry Cobb: And Berry Cobb, so, just in the interest of precision and I don't dispute the cyber security needs for maybe longer retained data, the question we should be asking though is do we need it to be retained longer than one year specifically for this purpose? And I don't think cyber security persons access to registration data under this purpose applies to purpose A, maybe it should

go along under B and then that retention discussion when we get to B, then, you know, we can have that.

Marc Anderson: Yes, I acknowledge that and we did give the feedback under B, but there's going to confusion later when we come back to it and say hey, I thought we already settled that, it was one year. It's one year under this purpose.

Berry Cobb: And so again, once we've matured all of our workbooks, then I'm going to float that up to macro level and if for example, it is agreed upon this group that retention under purpose B should be two years, then we can which data elements are going to be retained for longer again, not knowing that we haven't agreed to anything but that's the principle that everything will rise to the top once we get these built out appropriately.

Marc Anderson: Yes, I agree with that process however, we have all learned that it's good to be pedantic and precise in this forum and so, just doing that.

Gina Bartlett: Thank you, (James), Alan, (Emily), Benedict.

James Bladel: Hi, just – (James) speaking – just to add to that, thanks Berry, it may be a separate purpose but to clarify (Mark), this is one year following the contract, the life of the domain name. So, it's a minimum of two years if the domain name is registered for one year and then this would be one additional year after the domain name is expired or deleted. I think that's one thing, what I'd actually like to understand from a registrar perspective and I'm looking at Alan, is how this would apply to any request or notification for any individuals, data subjects to be deleted from this retention set? And if that's something that needs to be covered under this purpose.

Alan Woods: So many questions this late in the day, Alan Woods for the record, again, if we set a retention period of one year we can – as long as we can justify that retention period based on things like that, if a data subject turns to us and

says hey, I want you to delete that data, we can say well we need to retain it for this year under.

Man: Just to clarify.

Alan Woods: Yes.

Man: Life of the registration plus one.

Alan Woods: Sorry, yes, yes, yes, agreed. So, I think as long as we can justify it as an arguable case and I think we still need to set our retention period regardless of what – now a data subject could request that we delete it but we can turn around and say no, we have a good reason for retaining this data and you can assert that reason or you might not, depends on – it's up to the individual request really.

So, my actual question, well not a question, point I just wanted to clarify something that's on the document, I know not of a statute of limitations for the transfer dispute resolution policy of one year, I think it's just that it's to conform with the transfer dispute resolution policy and not the statute of limitations itself.

For clarification, statute of limitations say for me in Ireland would be a matter of contract would be six years so, but we're not talking about that so, it's not a statute of limitations at all.

Gina Bartlett: Okay, thank you. So, (Emily) your hand went down? Okay, so, I've got Benedict, Kavouss and then (Thomas) and then I think we have to check in because it's about 6:00. Okay, Kavouss?

Kavouss Arasteh: It's said that during the face to face meeting the team tentatively agreed to one year, I would like to see the language is used, do we use firm one year or we should be the duration of the retention of the data should be normally one

year providing some exceptions under certain circumstances. It may be more than that and you may extend that however, this should be more than beyond two years.

So, we talked about one year with the term usually and then we add that one however, this two year may be extended up to two years at the latest. Are we firm about this or we just talk about one year now, or is it still under the provision of retention? Thank you.

Gina Bartlett: I'm just going to let Benedict answer that and then I'll go back to Kavouss, I mean back to (Thomas).

Benedict: Thank you, so law enforcement, which I know you all regard as important, there is a mechanism within the Budapest convention to which 70 countries have signed, that says that as long as a law enforcement or responsible agency notifies the company within the period they can ask them to freeze that data. So, effectively soon as somebody says for a particular registration or a particular account, hey, we're looking into that you need to freeze it. Then across jurisdictionally there is a mechanism to do that. So, I think addresses your concern.

Kavouss Arasteh: I would like to see the language of what you mentioned because you explained it verbally I know, what the language is used, the term if that is illegal what do you say? The duration of the retention of data would be one year and then you add something or normally one year or so what? Thank you.

Gina Bartlett: Berry's going to respond.

Berry Cobb: I think where – this is Berry Cobb – I think where we're trying to go is to be as precise as possible for this specific purpose, your use of the word normally if there are circumstances that may arise that would require the data to be retained longer than what we're documenting here, then we need to find

another purpose for it to go to. I don't think there's room to be ambiguous or allow for small exceptions on the retention of the data, I'm not saying that it shouldn't be retained elsewhere or longer but we need to find a different purpose by which it might be retained longer than what we're defining here.

Kavouss Arasteh: We cannot determine all future possibilities and you say no use that you foresee. Some specific or certain conditions you don't need that to discuss that now. What you're saying is that you have to do everything now, no. I understand normally that means a sort of the provisions for future. Thank you.

Gina Bartlett: Stephanie wanted to get on this and then I'll come to you (Thomas), I'm sorry I keep putting you off a bit. Go ahead Stephanie, you wanted to provide some clarity?

Stephanie Perrin: Yes, I think – Stephanie Perrin for the record – I think it's useful to differentiate between the different reasons that data might be retained, so, there is under any data protection regime you have to retain the data long enough for the registrant to exercise their rights. And so, your data retention schedules would have that in there, now if you have a client with whom you have had a bit of a difficulty back and forth, then you are perfectly, legitimately allowed to keep that so that client can exercise his rights and so that you can exercise yours, I'm talking you as a registrar or a registry, right?

Okay, then we've got an external data preservation order that Benedict was describing under the cybercrime treaty, which ought to be the rule that you should be able to serve a data preservation order for whatever length of time is permitted in your jurisdiction, right? And then there is the data retention order that found its way into the 2013 RIA which was a broad data retention requirement for law enforcement, that in fact we were told by what's his name, (Hostings) when he was the EPDP, that that was no longer legal under the – that was in 2014 when the data retention rule got thrown out.

So, any kind of data retention has to comply with the current regulations.

Thanks, I hope that helped.

Gina Bartlett: (Thomas), or did (Thomas) take his hand down?

Thomas Rickert: Thanks very much, I guess maybe to further respond to the concerns that have been raised, we are only discussing the question on how long ICANN can actually require the contact parties to retain the data. And to Alan Woods point, I think we use the term statutory limitation in the context of the transfer resolution policy because under that policy complaints have to be filed within a year. Certainly, that doesn't preclude the registrar from retaining the data as long as they can legally obtain it and that would speak for potentially being three years in Germany or so, because then the claim against the registrar for the registrar wrong doing vis a vis the registrant for not following the contract would be by statute.

So, you know, all these other aspects have to be discussed elsewhere, we're just looking at the question of how long can ICANN require the contracted parties to retain the data and I think that we're on the right track with the one-year period because that's the only evidence that we found in ICANN policy.

Gina Bartlett: We're about ready, we have to shift to our plans for tomorrow, so, I think what I'm hearing is that for this purpose, right, for purpose A that the retention is for one year after the life of the registration for this purpose. For the other purposes it may be longer and then Berry proposes that we revisit that once we get into the specific data elements.

So, (Dan).

Dan Halloran: Thanks, Dan Halloran, ICANN Org just factual information in case it might help, from 1999 it used to be a three-year data retention requirement, in 1999, 2001, 2009 RA's all had a three-year requirement. In 2013 it was reduced to a two-year requirement with a provision for a waiver if that was excessive in a

jurisdiction, we've given out dozens of waivers for European registrars to retain for just one year. Just wanted to correct about the two years or the.

Gina Bartlett: Thank you. Okay so, the last thing we wanted to check in with you all about on this purpose, and it would put it – bring it to completion I believe, is just to check in on the admin fields and the tech fields whether these are required or is optional okay? And optional meaning that the registrant could ask – sorry, the registrant could provide, so, the registrar would have the fields but it would be optional, means that the registrant would determine whether they complete them.

So, anybody, any opinion about are the admin and tech fields required or optional? (Emily), and for this purpose only, for this purpose, purpose A. (Emily) and then I'll come to Alan G.

Emily Taylor: So, I think we're all familiar with the recent court decisions around these additional fields, which suggests that they are not necessary in any way. I've heard that even from our colleagues from law enforcement, that they never use them, the reason why I would propose that they are not even optional is because having an optional field requires a contracted party registrar to make that field available. If that field has no purpose to man or beast, then what's the point of it? And if the courts have also held that it is an unnecessary data collection, then that makes – that should drive us to a position where we're saying well, you know, Sia Nara.

Gina Bartlett: Thank you, I've got Alan G. and then (Mark) and then Kavouss is your hand up? No, yes, okay, so, Alan G., go ahead.

Alan Greenberg: Whether the data is optionally collected or whether there is a default field put into it, is tightly linked to an access issue. If we believe that the technical content is a field that might be made available under certain circumstances, to solve technical problems, the question is what happens if the field is not provided, do we provide no answer back or do we provide on that the access

time from other answer back? And I think that's going to be tightly linked to it because if indeed the field is used to resolve technical problems, how do we resolve it if they have chosen not fill it in?

Gina Bartlett: Can I just go to (Emily) on that particular element? Go ahead (Emily).

Emily Taylor: Okay, we can never rule out every single scenario of course, but there are several fields that have appeared in who is since the days when it was the old admin technical and billing contact, a registrant field, but there's also more importantly a registrar of record which in effect is the technical contact. So, when something is going wrong with a domain name, that is the first point of call and that gives a very accurate and hopefully responsive individual or organization to deal with technical queries.

There's also the registrant themselves, of course, if they're running their own show.

Berry Cobb: So, Berry Cobb for the record, and the reason why we're bringing this up now is we need to ask the question is admin and technical context the collection of it, the transmission, the disclosure necessary for what we've just defined for this particular purpose. What I'm hearing is if it needs to be optionally collected for whatever reason, it likely will go under B and we'll come back to B and have this kind of conversation again, but the reason why we're bringing it up now is because when we initially filled that worksheet A, it was listed as one being required under the data element. So, do we absolutely need admin and tech contacts to serve this purpose a full stop?

Gina Bartlett: Okay, I've got (Mark) S., Kavouss and (Margie) and then I think we'll try to shift.

Marc Anderson: Yes, I just wanted to address (Emily)'s comments because so, whether or not this falls into A or B, some of the things that (Emily) just said were not correct, I mean, I'm very fond of telling the story about how, you know, I got a

microscope it didn't work, I looked up, you know, their Website was down, I went to who is, they're technical contact, their site was up and then I got my software. But I mean, I used the technical contact just yesterday because somebody sent me a link to Home Depot and their server was throwing some weird error.

So, you know, people do in fact use it and law enforcement does use it, so, I just wanted to address that misconception. Now whether it's optional or not, yes, sure, I mean certainly it should be optional and, you know, Micro Soft elects to have a separate field and it's very useful to us. Again, whether that's A or B is a separate topic, I just wanted to clear the record about whether people use it or not.

Gina Bartlett: Okay, Kavouss.

Kavouss Arasteh: Yes, my question, sorry I was not there when you discussed it, what is the reason that we put postal code here in the brackets, whether this.

((Crosstalk))

Kavouss Arasteh: Yes, please, please. (Unintelligible), let me finish then you comment. Is it for distribution purposes or is for other purposes? If it is for distribution purposes, it is not optional. Distribution would be difficult if the code is not there. If it is other purpose please kindly describe or explain or inform me what is the other purposes than the distribution purpose. Sorry, I just wanted to finish and be in better position for the large, thank you. I apologize for that.

Woman: Excuse me.

Man: So, the reason why they're in brackets, again, the small break out team on the first or second day in LA, there was discussion amongst that team that those two fields may not necessarily be applicable to other countries and so, that's why they're marked that way. I should remind this group that while we

are limited to what we're discussing here data elements wise in terms of the scope of us defining purposes and processing activities, let's also keep in mind that we've got RDAPs sitting out there and these direct definitions of these fields that we have in this data elements, while they exist one way or another in our RDAP, they are slightly named differently but the way RDAP is designed and I would refer to Mark Anderson, that's much more expertise at that, that the use of these fields can accommodate multiple countries in how that's being set up.

So, again, it was just more a discussion within the small group that they wanted to highlight that's kind of an issue under a current who is model today, or RDS model today, so, that's it, I'll stop.

Gina Bartlett: Okay so, we have about three minutes because we need to shift to the plans for the rest of your session, so, I've got three people, (Margie), (James) and right over here, if you could keep it to less than a minute that would be awesome.

Margie Milam: This is (Margie), with regard to that lawsuit, the lawsuit hasn't been decided yet (Emily), it was a preliminary injunction. So, I think it's incorrect to say that it's the law unless (Dan), you can tell us what happened to the German lawsuit. But my understanding was that it hadn't gone fully to trial yet.

Gina Bartlett: (James).

James Bladel: Yes, thanks and I think (Margie) is correct, it's kind of in play but so far ICANN is 0 for four or five, but really and just to be clear, we're not talking about eliminating these contacts, okay? I think we've and you've heard me throw this out here and there were some folks in the room but they're gone now but, we're talking about contacts that are 90 plus percent duplicates with registrant.

We're talking about rolling everything up potentially into one contact. So, the person who is the registrant and the person who can help you with your telescope it's all one in the same. I think what we're trying to say is can we take this function of roles, administrative roles, which I'm still not clear on the difference between some of these admin and registrant, for example, is can we just get this out of the DMS, out of the who is, minimize the data footprint which I think is one of the principles, and just get this down to one simple contact. Because I think every other contact that we collect, even if it's redundant, increases our exposure. So, thanks.

Gina Bartlett: Thanks (James). Right over here.

Chris Lewis-Evans: Chris Lewis-Evans for the record, yes, I think I agree with a couple of points, I think we have – it's been mentioned on a couple of the email lists that these are optional and they're optional for the registrant which is very linked to this purpose. So, you know, it's not optional for the registrants who provide that input but it's optional for the registrant to actually enter that data. And then just to answer a point from (Emily), I don't think we've heard from anyone here that from law enforcement that it's not used by them if it's collected. So, I just wanted to clarify that.

((Crosstalk))

Gina Bartlett: I didn't hear your last statement, about law enforcement.

Chris Lewis-Evans: So, I don't think we've heard from anyone from law enforcement here that it's not used if it's collected.

Berry Cobb: So, we just had a quick side caucus but again, for purpose A, at least at this point, I don't think we've heard anybody suggest or state that it absolutely must be admin and tech contact fields be collected specifically for this purpose. And if so, then we should put down a justification or rationale for why otherwise, you know, we've got a chance to actually close up A here and

get a win and we can have this conversation again under B or maybe even C, purposes B or C so.

Gina Bartlett: Is there anyone that has to speak to that or can we just go with that?  
(Margie), your card is up. Do you have to speak to that?

Margie Milam: If it isn't collected under A though then how does it disclosed for anything else? Because isn't A the place where you collect the data for the other purposes? I guess that's my question.

Berry Cobb: So, purpose B just to be short is – that's our stuff and/or purpose C is contacting the registered name holder or admin and tech contacts, it just seems more aligned under those two.

Gina Bartlett: Okay, all right so, just to recap on purpose A which I think is ready to go into the initial report, we have a new purpose statement that is pending the struck language on the parens which I cannot recap off the top of my head, and we will pick that up on Wednesday, once the contractor parties are able to vet that with their colleagues. Under the processing activity of collection, we are saying that the registries are joint controllers and their legal basis is 61F, while the joint controller, I'm sorry, while the ICANN and registrars are 61B for the legal basis. Under transmission, it's agreed that it's 61B for the domain name and name servers, the registrars are processors and for the rest of the activities for the other data, it's 61F except the business community and IPC believe it's 61B and we're waiting for that to go out for legal review.

Under the disclosure, the registration data is 61B is the legal basis because the domain name and the name server may be personal data. So, if it's personal data it's a 61B and we are not going to include admin and tech fields for this purpose, we'll pick that up in purpose B or purpose C. Okay?

All right, great news, good. So, what we want to do the last thing before we break at 6:30 is just recap what you're doing the rest of the week and the plan for tomorrow. Do you want to do that (Kurt)? For Sunday, the proposal?

Kurt Pritz: So, we didn't get quite as far as we did today but I think it was a significant day so, tomorrow we want to do two things. One is we're going to take up purpose C here today, so, let's do that at least for an hour tomorrow and then starting at 1800 or 6:00 pm let's prep for the high interest sessions. So, that would be just the people who have volunteered to participate in that. So, you could plan your day around being here from 5:00 to 6:00 or maybe a little bit after but then we'll transition and discuss the high interest session and everybody's speaking roles and review the slides and materials. Yes, let's let (Marika) correct me and then you can own your questions.

Marika Konings: Thanks (Kurt), this (Marika) but nothing to correct just to note that staff did send a first draft of the slide to the mailing list, so, even though indeed we may focus the meeting with those that volunteered to present of course, if there are any issues or concerns that people have seen on the slides, you know, do share them, you know, preferably on the list that we don't need to take up meeting time for that.

As noted of course, you know, those will need to be updated reflecting what was discussed today, especially with regards to, you know, the purpose definitions and I think there may also be a need to maybe reduce some of the text and maybe turn some of the information into just speaking points instead of having all the information on the slides. But at least that may, you know, give you an idea of I think at least from a staff side what we're thinking and again, noting that leadership didn't have chance earlier to review that in detail but we did want to give everyone a heads up and again, input of course, is more than welcome.

(Alan): Can we know who's going to be on the panel? I believe I sent him a statement saying I was willing to, maybe I forgot to.

Kurt Pritz: (Marika )will look up the list.

Gina Bartlett: (Margie), did you want to get in? Okay, any other questions or comments, oh yes, Ashley Heineman.

Ashley Heineman: Thank you, Ashley Heineman with the GAC and sorry to kind of throw this in at this very late hour, but I just wanted to note that tomorrow starting at 5:00 as well is – well actually not starting at 5:00 but I think it's 5:45 there's a GDPR session in the GAC that is open to everyone and is involved with like (Youron) and I just don't know, it's – I would – it just seems like a bad conflict, I don't know if there's any way to deal with it now. I mean, I know I won't be able to be here, I don't know that my alternate will want to be here either so, you might have a bit of a problem in terms of having everybody here that needs to be here.

Kurt Pritz: Show of hands? Okay.

Marika Konings: Yes, this is (Marika) just coming back to the previous question and the volunteers that we had on the list and actually, Alan we don't you have there but, you know, I think the question is as well to that group, you know, if there are any specific part of the presentation that you want to talk to, you know, please let us know I think we have more volunteers than we may have slides unless you want to really switch within topics. But the list that we had from I think the previous meeting is Alan Woods, Diane Plow, Thomas Rickert, Hadia, (Emily) Taylor, Milton Mueller and Ashley Heineman and Benedict. So again, if you see anything in there that you specifically want to talk to, raise your hand and let us know on the list, I do know that I think we have more people than maybe wise to have on the stage because it may be worse for people to just take a topic, do that and then move to the next person instead of in the middle of a topic just for the sake of getting everyone on there, agile.

Kurt Pritz: That session starts at 5:45, is that what you said and goes until when? So, you'll cover all of GDPR in 45 minutes. So, let's have a show, oh, I'm sorry go ahead.

Ashley Heineman: I was just going to say, based on what I said earlier, I'm not going to be able to be here for the planning of the session, so, you can take my name off the list of participants.

Kurt Pritz: So, can I, well I think we'll start at 5:00 anyway, can I have a show of hands of people that feel or that plan to go to the GAC session? Okay.

((Crosstalk))

Kurt Pritz: If you're looking at your laptop you can watch.

((Crosstalk))

Woman: Is there any other time we could have the planning meeting, the prep meeting, maybe on Monday rather than?

Kurt Pritz: I don't think so, the sessions on Monday so. So, here's what we're going to do, we'll start at 5:00, we'll see – I think everybody should be here and we'll take the pulse of the room and decide maybe to advance the high interest talking planning session to the first part of the meeting. So, we'll make that call first thing when we get together. What time is it? Well go ahead, yes.

Marika Konings: And this is (Marika), just to note that of course, there are a couple of additional sessions that we'll have as well on Wednesday and Thursday and I think the current thinking at least, you know, from this side of the table is that may be used to focus on what the three small teams produced, all of them, you know, produced some draft recommendations, even though, you know, some of those were not signed off by or agreed to by the small team, but there are some topics that definitely need to get covered in the initial report.

So, the hope is and maybe, you know, again, looking here we haven't really discussed this but maybe we can pick on some people that were involved in those teams and see if they can move some of that even further forward by talking to some of the people here present and maybe come up with, you know, compromised language or proposed recommendation that we will forward to the team maybe to move that even forward a bit quicker.

And maybe just to remind people those topics were legal versus natural and geographic application and reasonable access, I think for two of those groups there's actually some kind of preliminary recommendations there, I think one group just kind of noted where they left the conversation but there was no agreement on, you know, what to specifically recommend.

Kurt Pritz: So, this is (Kurt), so, let's talk for a few minutes after this and compose an email for everybody so we can capture those and then plan for those discussions. (Christina).

Kristina Rosette: I would just like to ask at least for the registries and I suspect this might be a popular request, that as the worksheets are updated to reflect the conversations today, if they could be posted and circulated, it's going to be a lot easier for us to have a productive discussion with the registries if we can distribute the purpose A worksheet to them so they have a chance to actually see the full context.

Kurt Pritz: That's a great suggestion and Berry could you invent a rev control sort of thing at the top so, we're certain of what we're all certain we're looking at the right version?

Berry Cobb: So, on the wiki page we maintain the version controls so, the most recent one is in the left most column and then the middle column is a status of what the latest version is or what was updated or why it was updated, and then the far-right column are the older versions.

Kurt Pritz: And we presume there will be a revision ID on the document itself? So, we can look at it and see?

Berry Cobb: So, correct, and in the file name I guess we can add it to the.

((Crosstalk))

Man: No, on a printed document the file name doesn't show.

Woman: We'll add that.

Man: Thanks (Ellen).

Kurt Pritz: Okay great, first thanks to everybody in the back of the room, thanks everything worked perfectly today. So, long day.

((Crosstalk))

Kurt Pritz: Good job you guys. Thanks to (Gina), I don't know where you get the energy from I couldn't do it. And thanks everyone for keeping it really constructive, I thought it was really well done on everybody's part, we made some progress and see you manana and please leave your name cards, we'll collect those and distribute at the next meeting.

END