

**ICANN
Transcription
GNSO EPDP Data Elements Workbook**

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Terri Agnew: Good morning, good afternoon and good evening. And welcome to the EPDP Data Elements Workbook taking place on Tuesday the 29th of January, 2019 at 1730 UTC.

In the interest of time, there will be no roll call. If you're only on the telephone only, could you please identify yourself now? Hearing no one, I would like to remind all to please state your name before speaking for recording purpose and to please keep your phones and microphones on mute when not speaking to avoid any background noise. With this I'll turn it back over to Berry Cobb. Please begin.

Berry Cobb: This is Berry. Do you still – or can I do a sound check again?

Terri Agnew: Sure. Berry, this is Terri. I can hear you but there seems – when you first start speaking the first word seems to cut off a little bit.

Berry Cobb: Okay. I'm going to restart the Adobe Connect. I'll be back on shortly.

Terri Agnew: Okay, wonderful. While Berry is starting that, I'll go ahead and pause the recording, so if you could just give me a moment?

Berry Cobb: Okay, how about now?

Terri Agnew: This is Terri. It is better for me as well.

Berry Cobb: How's the (unintelligible). So you'll see that Alex will be on shortly. And in terms of today's agenda, thought we'd first just go through – give Alan a chance to review the 1a 1b workbooks that may touch upon several of our other agenda items such as our definitions for our processing activities, what we're going to do about transfer of data from registrar to registry. The second part is, you know, just a quick recap from the discussions in the plenary today regarding Recommendation Number 5 and that a – it is a result of what we see in the workbooks.

We'll, again, just kind of turn back through the definitions if we need to. Fourthly then I'd like to just confirm some other logic aspects then the throwaway version of Purpose 2 that I had sent out and again, mostly to confirm not so much the collection and transfer processing activities because I think we'll have that discussion in the Purpose 1a, 1b workbooks but more about the distinction that I made in the disclosure processing activities as well as a discussion around the minimum public data set or perhaps the base set that was proposed in the plenary.

And then I'd like to kind of step down a little bit more into the logic at the data elements label, or level I should say, in first in terms of finding agreement about the proposed change to how the (unintelligible) and designations occur in the workbook elements but then also have a discussion

again hopefully reconfirming what we decide on as it relates to collection and transfer of data elements that's represented down in the table.

Then if we do have time just at least a quick discussion about the data flow diagrams and hopefully we walk away with an overall agreement on structure and logic and that over the next 30-some odd hours try to go back into Annex D and update it so that we can (unintelligible). And then lastly I suspect we probably won't be done by Thursday but we probably do owe an update to the plenary on the 31st with at least just a quick status of where we're at and (unintelligible) confirming the (unintelligible).

So I'll stop there, open it up for any general comments or suggestions about the agenda. And if I don't hear anything then, Alan, please just give us a (unintelligible). Marc, please go ahead.

Marc Anderson: Thanks Berry. It's Marc. Yes, I think your agenda is good so thank you for that. And I just wanted to highlight, you know, based on the full group discussion we had around Recommendation 5, I think it's important that we make sure those, you know, make sure we get, you know, we prioritize the work related to that and probably defining what a – the minimum data set looks like just, you know, I think these are things that, you know, we maybe are conceptually agreed to but when people see them on paper, you know, it takes on different meaning sometimes.

And so I think it's really important we get the pen to paper and get stuff, you know, get – especially those two items in front of the full group so that they confirm yes, this is what we've intended. But, I think that's – your agenda's good and looks good. Thank you.

Berry Cobb: Thank you, Marc. I concur. And perhaps that is part of the update that we provide to the plenary on Thursday if we get far enough. I'm for sure hopeful that, you know, those Bullets 2, 3 and 4 will predominantly consist of us understanding (unintelligible). Sorry about that. A call came in. But that our logic discussions specifically around collection and transfer will help us finalize exactly how this should be properly documented to yes, in turn reflect the group discussion around Recommendation 5.

So if no other comments then, Alan, I'll turn it over to you. I'm going to unsync the screen for 1a, let me know when you want to switch over to 1b. I think for the most part the group understands the split of the purpose statement and again, it's not for us to really reword any of the purpose statement for this group but, again, more to focus on the processing activities and then the data element changes you made below.

I'll just make one other comment, when you sent these to the list it did scare me or spook me a little bit up front in terms of how the responsible party designations were made in the columns because that wasn't what was actually presented in the initial report. Come to find out, it looks like you used an older version of the processing alpha, I'm sorry, purpose alpha, and so, you know, seeing those joint controller designations may have likely concerned a few on the group if they did in fact read it because we hadn't, you know, it's not exactly to the Recommendation 13, I believe, which is our roles and responsibilities and how that's going to be further displayed.

But anyway, small – or just to summarize the point, I recognize that it's an older version of the workbook and once we kind of review through some of your changes we'll need to make sure those get carried over into the Annex D after. So I'll stop there, and Alan, please go ahead.

Alan Woods: Thank you, Berry. Yes, apologies about that. Yes, I don't even know which one – why we started working on this one but just did, so apologies if it was an older version. Yes, so as people can tell, this took a while for us to get back to because I think, you know, there were several – the whole point of this is that there were several conversations – we made one change and it led to another change; and we made another change and it led to another kind of conceptual change.

And like it was just a very difficult process to go and go through, should I say. And, you know, having listened to the call and (unintelligible) you know, through what they (unintelligible) and they kind of occurred to me as I was going through the call on Thursday, specifically, because a lot of the issues that stemmed from what we were looking at in this – in these workbooks were the fact that it just – it's very hard to represent the process as a whole or the purpose as a whole in the view of a very linear take on how data flows because the problem is, and I suppose this is the first kind of preemptory thing I will say, is that, you know, you were talking on Thursday about how the transfer – it's not a transfer, it's a collection by the registry.

And there is a transfer involved but the problem – I think the point was missed is that – and I tried to get this in but it's very hard – is that it's not just – the transfer does occur of the data from the registrar to the registry; that is the disclosure element. But simultaneously, the transfer as the disclosure is the collection by the registry. So you know, it's not as if there's one or the other, it's both occurs at the same time, just different parties are processing different things at the same time. And it's very hard to represent this within these workbooks.

Again, no fault of, you know, coming up with the workbooks or trying to put into the workbooks, it's just that this is not a straightforward way. And, I

mean, you know, the workbooks – we're trying to represent in text which is something that we should probably still be mapping out properly in visually speaking first and then each visual representation will be a different processing action, with each, you know, processing action having its own relevance to the purpose.

And I think this is one of those issues when we're going through this. And it did raise, again – and again when we're talking about the later purposes, you know, it raises issues of each and every single purpose that we have at this particular in moment time, we cannot think of the other purposes that are there. They are absolutely not relevant to the purpose that we are considering.

So a piece of data maybe collected or, not a piece, data may be collected for several purposes by a single act of collection. However, for each purpose we must consider that act of collection as being a collection for that purpose alone. So, you know, and this will come into 1a and 1b. So again, when we're looking at when we're making statements such as, you know, well for Purpose 2 it's collected in Purpose 1, Purpose 7. No, we cannot go down that road because that's just not true. The purpose must have its own collection as well.

So in this one, that's kind of the background of why, you know, once we started going into Purpose 1a and 1b, it was very, very difficult. So for Purpose 1a then, which is the – I just have to start and say, you know, I know we're not changing the actual – the heading or the actual purposes of, but again to activate and to allocate the registered – allocate it to a registered name holder.

The difficulty here is, and, you know, the question of – and this is where the responsible parties of ICANN being, you know, a controller or the processor or not, this is fell straightaway into – and this was the root of the discussion

within the Registries where we were going, look, when it comes to the allocation of a domain name, Number 1, we don't actually need personal data because it is just we need the domain name and we need the name servers. And both of them sure, they're technically not personal data, and, I mean, I'm okay, you know, I always have an issue with regard to the domain name where it could slip into personal data land but let's just put that aside for the moment because that's a side issue because it is a low risk concept of personal data.

So that's where we started, that's why we need to break this out because we do not necessarily need to have any terms and conditions subject to this. So we can't impose our will as a registry or the will of – well as a registry we can't impose our will on the allocation or the activation of a domain because it's set, it's the (ORC), the, you know, it's in our contract. This is how you activate a domain. So that's where we came from on 1a.

And then the next question kind of came up and we were like, okay, well what happens if a domain is – and please forgive me, I am a lawyer going to maul technical terms here – what happens if it's an in-zone allocation or in-zone activation of a domain, that the name server is on the domain within the zone itself? Well then surely we'd need an IP address in order to then properly activate that domain because we wouldn't know where the name servers themselves are pointing so we would also have the IP address on that one. So we have to add that in as well.

So then you can see that then at the bottom that we added an IP address, but we also added an IP address as being optional because it's not – if it's out of zone allocations – not allocation, activation – then we wouldn't necessarily need the IP address. So that brought in straight away another element of personal data as, you know, the European courts have recently confirmed,

much to much people's disappointment, that a dynamic IP address is considered to be personal data which is, you know, conceptually crazy but, you know, it – that's what the courts have said, so we just have to accept that.

So when we are looking here then – just going down to purpose – the processing activity AP A1, so we were saying that ICANN is, you know, I see your point here now, it's so annoying. So we are technically for 1a, we are processors, but where applicable, the registry might be a joint controller. And that's where we got a little bit crazy. So ICANN is considered a joint controller only where it is applicable to be a joint controller where the registry is considered to be a joint controller.

That is where there is some element of controlled influence over the manner in which a domain can be allocated. But generally speaking, for most registries in their actions there will not be a controllership; more than likely be just acting as mere processors in this. But again, there are nuances involved in this that might be considered a joint controller and that is really a matter of for the individual registry to have that conversation with ICANN at the table of, you know, agreements that will potentially come up. And it really depends on the instances of that particular domain or domain name allocation or activation so we have to be clear there.

Another interesting issue was when we're talking about the allocation aspect of the domain, other questions will – such as things like, well, realistically as a registry, and as a new G specifically in this, in the allocation of a domain name, there might be the use of personal data because depending on the type of allocation, say it's a sunrise, so it was an end date sunrise for that registry.

And they chose to use, again, bringing this concept that they have more control over this, they chose to use an end date sunrise. And instead of

allocating two particular registrants from a particular registrar made (offers), we potentially would have to identify which of those two offer to that registrar was the successful one. Therefore, there is a concept where there might be the necessity for us to identify. It might be purchase code or might be some other way of identifying that registrant, but the key thing is, it is the identification of the registrant.

So there is a potential there, again, that there is some sort of, you know, a niche, a very beginning of a registry operation for a TLD, there might be a necessity for the use of personal information in the allocation specifically of that domain name. So again, this is another one of those layers that appeared and we groan greatly going, how do we fit this in? How do we bring across this specifically?

So that's, you know, the collection of the data is not straightforward because generally speaking in a straightforward application of the activation of a domain name and the allocation of the domain name, that personal data is not necessary but there is elements where it might become necessary and we have to somehow put that in there, hence the reason why we've (unintelligible) the joint controller were applicable because that would then possibly change the lawful basis as well. Oh, so that was just the difficulty in the collection of the information.

So the transmission of the registry data from registrar to registry, I don't need to go into that; this is the same issue that a registry or a registrar will only normally transfer data to the registry, which is the collection for the registry, the data relating solely to the activation and the allocation of the domain. So that again in the normal kind of run of the mill situation that is a name server and the domain name itself, not necessarily an issue. But again in those

instances where we might need an IP address or we might need a further information for the allocation of a domain it becomes more difficult.

So in this one we just said, look, ICANN is the controller, registrars re the processor, but for the transmission there is no registries because the registries do not transmit this data so it is just a registrar only one in this one. So we said, data elements would be required to transmit the registrar to the registry.

The lawful basis of 6.1(b), vis-à-vis the processing of the registrar, because they do need to rely upon – they need to transfer this data in order to fulfill the contract, so that is one of those easy wins for a 6.1(b), they don't have to have the balancing test, and should persona data be involved? And again, that is a huge proviso, should personal data be involved because there may be personal data involved in that and it would be based on 6.1(b) but we have to be clear on that.

So and again I put in the note here just to make sure that we understood that if the registry is receiving data at this instance, it is collection that is under APA1 at this point, so it's simultaneous collection and transfer by different parties under the same purpose just to make it all lovely and crazy.

Disclosure, publication of the registration data, again, this is definitely something that, you know, we would consider that both registries and registrars would be processors on this. And again, that is assuming this disclosure equals publication that we would need to publicize – not publicize, publish certain data elements, namely the domain servers – domain name servers – and the domain name.

And again, from a registry point of view, it should be 6.1(f), because we do not have that contractual relationship, it is a legitimate business interest in

order to give rise to the transaction in order to help the registrar fulfill their contracts with the registrant. That's not a pass through, that is – it is a separate legitimate interest basis.

Now there might be – there might be, you know, legally speaking there is argument and Ruth confirmed that there could be legal arguments one way or the other in this, but let's be perfectly honest in this, if – there is no way that we would fail on proving that we need to process those two elements of data because the balancing test would be in the favor of supporting the activation and the allocation of a domain name because to do so otherwise would just render useless the entire contractual relationship between the registry and the registrar – registrar and the registrant.

So in that one we said, again, you'd have the minimal discretion of the requirements of 1a, this is at the direction of ICANN, that's what we can do and how we achieve the results, so with that minimal discretion we are acting as processors. And I hope that's relatively clear because it took a lot of time to get to that as well.

Moving on to APA4, the retention of the registration data by the registrar, specifically the registrar because the registry does not have the retention requirement in this. Again, this was difficult because retention is not technically necessary from – sorry, necessary from a technical perspective. The reason why you changed that because we're mixing up technical terms with, you know, language terms.

They don't need to retain anything to allocate. So the purpose for the allocation and the activation of the domain, once the domain is expired there is no need to retain that data. If a registrar thinks hey, I might want to retain that to prove that I did it correctly, that is not under a direction from ICANN,

it is not direction on the RAA so therefore they would be acting in that instance as a controller because it is their decision to retain that data beyond that which is necessary. And it would be up to them outside of the EPDP, outside of ICANN to justify their own retention policy on that one.

So in this one I just have put down retention is technically not necessary and therefore it really – ICANN is not involved in this and the registrar would be a controller only if they did it themselves. So I don't know if that's clear as mud or not but it seems straightforward enough that ICANN does not require retention for this, they should not require retention for this so we will just move on.

So that would explain why the retention is now considered, and we've added in the data elements matrix. You can see retention APA4 On the data elements matrix. We just put them in that there is a potential for retention but if it is a retention it is the – only for registrar in this one, not the registry.

Yes, Sarah, I agree, I don't think registrar needs to retain data beyond the lifetime of the domain but they – if they do decide it, it's up to that individual registrar to deal with. I think we just put it in here more just to – as a straight fact that, you know, retention is not necessary but it's here. Great.

So you can see then at the very bottom, so it's a very straightforward data elements matrix that the collection or obviously – well straightforward or not – all the collection – and I believe you talked about this, Berry, in the last call as well and I completely agree with everything you were saying that it's – it gets very messy at this point because, you know, things like the registry – the registry ID and things like that, you know, they're all things that we technically would have to transfer first.

But obviously it's not collected in this, so all the original collection – we have them already, it's not necessarily personal data, doesn't necessarily need to be in here but we said we'd just leave them in anyway because I think they're just kind of illustrative. I don't think we're wrong one way or the other but a lot of this is not personal data so we just don't need to worry about that.

The retention aspect then is just purely for the registrars if they decide to be a controller in this instance but that is completely up to them. But the core important one for 1a then is the name servers, the DNS SEC in there, maybe Marc can answer that because I put that in and I don't know whether or not we do need that one, as I look at it, but definitely the name servers and the domain name itself has to go in there.

We also added in IP address for the name servers just purely because again, this concept of the in-zone IP. Yes, I'm bumping to Marc for that one for a sec.

Berry Cobb: right. Thank you, Alan. I myself have several questions but I'll open it up to the floor to the rest of the group say like from initial questions that's fine.

Alan Woods: Sarah, go for it.

Berry Cobb: Sarah.

Sarah Wyld: Thank you. And thank you, Alan. I feel like you've said a lot of really intelligent stuff and I'm impressed that you were able to be as coherent as you were after the other call we just had today so that's amazing. I have a question about the scope of this group or what's appropriate for us to do within this group so I apologize if this is something that's already clear to the other people on this call.

So when we're – we're looking at this purpose of activating and allocating the domain name, and we have the updated chart in the data elements matrix section, so if there are data elements that we or perhaps some of us don't think should be required under this purpose, so for example, do I need a postal code from the registrant in order to activate and allocate a domain name? Is that open to change within this small group or is that something that we cannot change because it was already decided by the bigger group?

Berry Cobb: Thank you, Sarah. I think in general we have the option to make changes. I would state it that it's probably more suggestion to the larger – with an appropriate rationale as to why it was changed and the whole idea is that we document that it is a change that is in line with the current text of the recommendation. So, you know, there is a degree of caution there.

But, you know, if there – I think if there are core logic breakdowns in how we're documenting some of these, those are pretty easy to justify. If we start getting down to a particular domain element especially like in the registrant field, why one wouldn't be collected or not or becomes optional, then we'll need to be more studious about why an individual field was changed from what we had.

Sarah Wyld: Thank you.

Berry Cobb: Marc, please go ahead.

Marc Anderson: Thanks, Berry. It's Marc. You know, I just wanted to sort of hop in on this one because, you know, one of the comments from the Registries was that, it was around these worksheets because we felt like all the work confirming that the data there is correct had not been done. You know, I think, you know,

we're all under time constraints obviously but I think you know, some of the worksheets or the – especially the tail ends of some of these worksheets got a little rushed as we got into the initial report.

And so, you know, so the Registry comment was that we really need to spend the time doing what we're doing now, do a review of these and make sure all the information there is correct. And so I'm certainly not looking at it that, you know, any of this is set in stone. If we see something that's not correct, my view is that we should be flagging it and presenting it back to the full group suggesting changes to fix whatever's wrong. So certainly for my view and sort of reflecting the comments from Registries is that we should be doing this work and flagging anything that is not correct.

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

Alex Deacon: Yes thanks, Berry. Yes and thanks to Alan for that explanation. I think – I just have two comments. First, you know, I'm still wrapping my head around the changes you've made to the responsible parties here. And if it's okay I'd like to consult with Diane as she is more expert on these things than I am and she's back from a overseas trip and in the office tomorrow. So I'll make sure I sync with her as soon as possible.

Second, I'm just curious about the – this optional IP address for the retention purpose APA4 and, you know, the comment that's an in-zone IP. Does this have to do with – are we talking about glue records here or is this something else? Perhaps this is a nuance of DNS technical – technicality that I – that's – I'm not aware of. Thanks.

Alan Woods: Thanks, Alex. So again I am a mangler of engineering terms and tech terms. Marc, if your hand is up for that, could you jump in? Because it made sense to me when I was talking about but, you know...

((Crosstalk))

Marc Anderson: Yes. Absolutely, yes, I can respond to that. So, yes, so it has to do, I mean, Alex I think you know, you know, most of this so, you know, I have to say it has to do with the fact, you know, with DNS we're providing a lookup service. And as a registry operator, if you – if you're activating a domain name you need a name server in order for that lookup to work.

And the, you know, and the registrant can provide any, you know, any name server they want but, you know, Alan talked about, you know, in-zone so, you know, if you're ICANN Org and you're activating you know, the ICANN.org domain name, you could use nameserver.org or sorry, I should say, nameserver.icann.org as the name server to activate that domain name.

But in order for that to fully resolve, the registry would also have to be able to tell the person doing the lookup the IP address for that is because the same registry hosting the domain name is also authoritative for the name server. And so if you have an in-zone host, meaning you have the same – it's under the same top level domain name in my example dotOrg, then you would – the registry would have to be able to provide the IP address for that name server.

If on the other hand, ICANN Org decided to use, let's just – we'll pick on Biz, let's just say they were using nameservers.icann.biz, and that's where their name servers are, then that's an out of zone host in which case, you know, the registry operator and in my example, dotOrg, is not authoritative. And so, not

authoritative for those domain names, which means they're basically just providing a referral to the dotBiz TLD which would provide the IP addresses.

So that's a long way of saying if it's an out of zone host, you would – the registrant would provide name servers but would not provide the IP address for those name servers because it's just a referral to the TLD that – to the registry operator that's authoritative for it. If, however, it's an in-zone host in order for, you know, the whole tree to resolve, then the IP addresses have to be provided. So hopefully that was helpful. I feel like I got a little long-winded so apologies for that.

Berry Cobb: Thank you, Marc. Sarah, please go ahead and then I'll turn it to Trang, then I'll (unintelligible).

Sarah Wyld: Thank you. Thank you so much, Marc, for that explanation. I definitely feel like I understand better now. I had something on a different note to ask, and Alan, this might be a question for you. So just looking at the APA1 row in the lawfulness of process text, we have registrars as processors, which I can understand; it feels a little bit weird but makes a lot of sense logically. But then in the lawful basis section we've got 6.1(b) for registrars talking about collecting data.

So if registrars are only a processor, would you still see that purpose as being applicable there? Or do we need a purpose – we need the registry and ICANN purposes or lawful bases rather?

Berry Cobb: And Alan, before you respond I'm going to hold on – have you hold onto the response to that because that is definitely one of my questions as well (unintelligible). Trang, please.

Trang Nguyen: Thanks, Berry. This is Trang for the record. And I put this comment in the chat as well, just wanted to flag that, you know, ICANN Org has not had an opportunity to really review this document that Alan had circulated and, you know, we previously flagged some issues and concerns with the designation of joint controller, and that the responsibilities really need further discussion.

I know Dan is on – is listening in but I don't think he's in a position to speak. So I just wanted to flag that we haven't really done a thorough review of the document and will take an action item to do that and come back with any comments or questions. We don't want to derail the good discussion that this team is having, just wanted to flag that. Thank you.

Alan Woods: Thank you. Yes, it's Alan here. Yes, thank you Trang. What I will just say is though that's the whole point of this group I assume is to have those discussions so your inclusions and your discussion in this is – are always going to be welcome in that so I would encourage you to do that. As for Sarah, yes, could you ask the question again because I totally – I think I missed your point so please, could you just maybe one more time?

Sarah Wyld: Yes, sorry. So in the lawfulness of processing text – test section, the first processing activity is collection and registrar is the processor. But then the lawful basis talks about the registry processing under 6.1(b), that's performance of a contract. So the – do those two things align in a way that I'm not seeing or is it that the lawful basis section should have been changed?

Alan Woods: I see, okay.

Sarah Wyld: Yes. And as I'm saying that, like maybe it does make sense because I'm a registrar, I have a contract with ICANN so the purpose for the processing the data ICANN is the controller, I'm the processor, the contract is what puts that

in place but my lawful basis is performance of a contract except for it's not that contract, it's the contract with the registrant. And now I'm confused again.

((Crosstalk))

Sarah Wyld: Yes.

Alan Woods: No, so your purpose is always going to be related to the contract which you have with the data subject. So in this...

Sarah Wyld: Yes.

Alan Woods: ...instance your contract with the data subject – you are saying to them, I'm going to process your data, in fact I'm going to collect this data for you in order to this. And therefore that is 6.1(b), it is – you have a contract with your registrant in order to process that data. But you are still a processor in this instance because you are still working at the behest of the RA in order to that. So there's two separate contracts, however the 6.1(b) only relates to your contract with the registrant.

You don't need to prove – you don't need to justify the transfer to ICANN at all. They're telling it to ICANN to transfer but you have to justify your transfer anyway to the registrant and that's 6.1(b) in my mind, if that makes sense?

Sarah Wyld: That does, thank you.

Alan Woods: Perfect. Yes, next one. So, Berry, you've got a lot of questions so please, feel free.

Berry Cobb: Yes, so – and I don't want to sound like a wet blanket here, but I'm going to go ahead and start with the responsible party and lawful basis part. And I for sure understand that we are getting into the details here, the understanding of these roles that each responsible party plays is important. However, I'm starting to get concerned that we're getting too far in the weeds of defining these processing activities based on the generally agreed recommendation that this EPDP is not defining who's a joint controller or a controller/processor or independent controller, that it's kind of being more an implementation aspect.

And contracted parties working with Org to properly define those roles and responsibilities – and that was what my concern was when I first mentioned this that if we had this discussion in the larger working group it already – it would already be gasoline in the fire that we're designating. And again, I'm not saying that they shouldn't be done but the other aspect about trying to get into the weeds about some of these processing activities is do we need to go this beat or can we at least as easy as possible still demonstrate the intent of an actual recommendation language that is being mentioned in the final report?

Because I'm very concerned that if we start reworking all of these and trying to define whose controller/processor or what role they're going to take specifically in the light that even in a joint controller agreement those roles are still being played based on what we've developed thus far, it seems somewhat out of scope at least for what we're trying to accomplish here.

Secondarily, lawful basis, I understand the desire to get into 6.1(b) or 6.1(f) but I'll note that we still have pending legal advice from the group that will likely dictate how – what degree we document that in here. And I think most on this agree that, you know, it's very likely most of these processing activities will be a 6.1(f), some are for sure a 6.1(b) but, you know, it's a good

chance that we may not – we still might have to go with both. Anyway my point is that that hasn't been ironed out so I'm very concerned about the time there.

And then just a specific question that doesn't need to be answered right away, Alan, you made note that in the original collection of this data from the registrar by the data subject is then subsequently whether it's in terms of allocation or activation of the domain name, or even for that matter in Purpose 1b, which we haven't really reviewed yet, there are data elements that are in effect being transferred from the registrar, so that's a distinct processing activity but in parallel or at the same time, you know, the vortex of the universe, the registry is also collecting that data.

So that's where, when I developed kind of that Purpose 2 throwaway version where I started to specifically break that out, and then how you documented it here by just adding a note under the lawful basis that there are these quick roll reversals, is that sufficient enough so that we don't have to dive into a deeper detail of understanding the nuance between what is a transfer versus a collection?

So the last thing I'll state here, again, which really kind of takes – should take us back to Recommendation 5 that is something that, you know, we need to hone in on as we – after we have (unintelligible). I'll stop there. Marc, please go ahead.

Marc Anderson: Thanks, Berry. It's Marc Anderson. I have to admit you were breaking up a bit for me at the end and I'm not sure I followed the second and third points you were making, so I think you had three points and so I had a little trouble following the second too. But I raised my hand to respond to the first one, so

let me tackle that one and maybe you can re-summarize or somebody else can take a crack at your other points.

To your first point I guess is a question is, do we need to – do we need to get into the weeds that, you know, this much? And, you know, is that really within our scope? And that's a fair question. You know, I'm, you know, I'm often asking myself, you know, how much detail do we need? And I've been a proponent, you know, since day 1 of leaving the details of the contractual arrangements up to the, you know, the lawyers negotiating the contracts.

You know, that said, I think, you know, some of this work is necessary for us to do this analysis. You know, I think we need to have that basic understanding. And I think also, you know, having that language doesn't necessarily you know, contradict or hamstring the negotiations that follow. And I'm looking at the latest proposed Recommendation 13 language and it has, you know, proposed an additional text, you know, "Due consideration should be given to the analysis carried out by the EPDP team in its final report."

And there I think we're really talking about, you know, this analysis, you know, the analysis we're doing, you know, that has been done on these worksheets and, you know, and that we're going through in detail right now. You know, I think this is, you know, this, you know, this is input I think to the contract negotiations. And so you know, one, I think it's really necessary for us to have that understanding so that we can properly document this and come to our recommendations.

And I think, you know, the proposed Recommendation 13 language sort of recognizes that and sort of directs, you know, directs, you know, the people negotiating the contracts to consider this analysis or what analysis ends up in

the final report. Hopefully that helps. And I don't know if anybody else has responses to your other comments.

Alan Woods: Thanks, Marc. This is Alan here as well. I mean, I'm not going to lie. I'm a little bit – what Marc says is absolutely right, I think that it's in-built that the other processes and the – that need to be there, you know, they need to take into account, you know, the consideration that we have. Like I mean, I would love to drop the responsible party concept in these workbooks as we're talking about data elements, but, you know, that's what was there.

I just – this goes – this harks back and I think my entire point is it harks back to the, you know, the request that we made in day 1 that, you know, before we go into defining anything about this we needed to map out the flows of data; where it's going from, what is happening and what is the actual process happening at that particular time which was never done.

And I should – I'm a bit at loss to say, you know, well, you know, of course we have to – the lawful basis was asked for so we put in the lawful basis; responsible party was asked for, we put in the responsible party. If we're just saying what the data elements are and leaving it down to the very last one then just leave it at that then. I mean, what data elements are necessary for the transfer? Leave it at that and then we just defer the rest of, you know, the negotiations themselves.

I mean, I'm – apologies, I'm just not sure where or why we are coming from there. But look, I think it's an aside so maybe we'll just think about it but I think we need to move on to actually getting through the chart to be perfectly honest because, you know, it's the data elements, what is necessary in a particular – for a particular purpose that we should be focused on here because

that's the core and the crux of it. So I'm just –I just don't know exactly what we're expecting there if that's the case.

Berry Cobb: All right. Thank you, Alan. I'll just ask one more detailed question which does take us back into the data elements, so, you know, as I read through the processing activities and your proposed changes, what, you know, a few things did jump at me is for example, so I'm looking at Page 3 for domain names, so we're showing it as collected by the registrar, we're showing that there's a transfer/collection by the registry for that data element but under Disclosure/Publication there's not a 1 marked there.

But we know that that domain name does get populated into the DNS. So like specifically why isn't there a 1 under APA3 or secondarily that there's – under APA4 under Retention there's a 1 that is redlined as being retained but we're not showing it that it was being collected or transmitted to the registry. So, you know, and it's for sure that kind of detail that I thought that this group was trying to better understand and a little less about the specificity of what's occurring at that processing activity. So...

Alan Woods: Yes.

((Crosstalk))

Berry Cobb: ...and then I'll go to Marc.

Alan Woods: Yes, Berry, I think that was just an oversight. I think you're absolutely right on that one. Obviously it would need to be published in the Whois output because it identifies the domain so that is an oversight to be perfectly honest. So yes, I agree with you on that one.

Berry Cobb: Right, Marc, please.

Marc Anderson: Yes I agree with Alan. In fact, you know, we had that exact conversation and so I'm, you know, this may be, you know, a versioning or editing snafu but, you know, certainly, you know, it needs to be published. You know, but you brought up, you know, published in the DNS and I think that's another thing we talked about but I don't think we actually did anything on the worksheet with that but you've got the sort of, you know, the third column there, APA3, Disclosure/Publication, Disclosure, you know, I think there we need specificity – tricky word – on what exactly – what is the activity right?

There's, you know, there's certainly, you know, there's publishing in the DNS and you know, that's not something we've talked about as a working group, you know, because so much of our focus in this group for better or for worse is about, you know, access to the registration data, you know, not so much the operation of the DNS which, you know, which is, you know, ultimately what we're trying to accomplish.

You know, so certainly, you know, some of the data collected is collected so it can be published in the DNS, which, you know, by necessity is publicly available information. You know, then there's also – but then, you know, moving on from that then we get to, you know, the, you know, what we talked about at the last meeting, this concept of the minimum public data, you know, what data would be available in a, you know, sort of the public RDS output? And then what data would be, you know, redacted or otherwise not publicly available but may be available through some future, you know, Phase 2 defined UAM model.

And so, you know, when we're talking about those, you know, those disclosure, publication activities I think we need to be a little more specific on what is that activity we're referring to there?

Berry Cobb: All right, thank you Marc. So I'm going to – let's go ahead and try to continue on in the agenda. We're 55 minutes into this or technically 50, we got a late start. Let's jump over to 1b just so that Alan Woods can review through it quickly and how it differs from 1a but then, you know, for sure is what Marc had brought up is, you know, this minimum public data set or whatever we're going to call it because ultimately that is implied although this is bad for me to say, that when we're talking about disclosure for some of these other purpose is it kind of inherently implied that that data element is going to be involved in this minimum public data set one way or another because that is what would happen when we do an, you know, an RDAP query or Whois query down the road.

And even to Stephanie's point, you know, I guess it's just the matter of ultimately what's going to be redacted, what isn't. But there is going to be this – or at least I understand that there's going to be this minimum public data set that's available whether you query, you know, wherever you query and whether it's a Whois or an RDAP.

So I'll stop there. Alan, let me bring up the Purpose B, and again, let's try to be a little bit more brisk on this so we can go into some of the other detailed conversations and I've unsynced. Go ahead.

Alan Woods: Thanks, Berry. Just on that point, noting the briskness as well. It's not the minimum public data set, it's the minimum data set, so we're not talking about a minimum data set to publish, it's the minimum data that we need to achieve the purposes. And again, each purpose must be considered as a separate

purpose. So you go through the entire data flow for that purpose and that purpose alone and it has absolutely nothing to do with the rest of the purposes so we have to be careful on that.

Now I don't actually see Purpose 1b, it's not on my screen for some reason. Let me see, is it a readout issue maybe? No, it's saying broken file for me. So god dammit, it must be me. Of course it is, just to make things interesting. But okay so I don't have it in front of me but let me just from memory say – no that's not going to work because obviously there might be issues with it. Marc, do you want to maybe take it then?

Marc Anderson: Actually I was just going to respond to what you said there because I feel like you made a good point that – I don't want to let that slip by. So yes, I mean, you know, when I was talking I, you know, I delved into a couple, you know, I delved into the publishing an RDS, which are different purposes really. And we're talking about Purpose 1a and 1b, right, and, you know, I don't think anything in those purposes involves publishing in RDS.

So I don't want to just gloss over that, I think that's an important point. You know, the activation and allocation of the domain name to accomplish that, you know, we're processing, you know, we – I'm using "we" to refer to registries and registrars there, you know, we're collecting, you know, data from, you know, from a registrant and processing, you know, personally identifiable information there in the performance of the activation and allocation of the domain name which does involve the publishing of some data in DNS but that does not involve publishing of data in RDS.

And so the publishing of any data in the RDS solution would have to be covered by – you know, would have to be and is covered by other purposes. So, you know, real good point there, Alan, thanks for that clarification.

Alan Woods: No problem. So Sarah has provided me with a copy of 1b, thank you, Sarah. So let me just go through the one that I have on my screen. So one of the first things that we just added to, and that is in the purpose rationale as well, and we thought it was kind of important was to also put in that – and the point in time that we're currently looking at, it's not just Section 3.2 of the RRA, it's also Spec 4 Section 1.5 and Spec 2 of the RA, so we just wanted to clarify that there was some other purposes and rationales there but that was a very small thing at the very beginning.

Like I'm – I don't think we should – based on what Berry was talking about earlier, I mean, look, let's just go and cut to the chase and say what are the things that we need to actually transfer – the data elements that we want and whether there were any changes in that. And that was the disclosure – the thing we came to if you go down to the data elements matrix and say that is effectively the disclosure was the only additional thing and that is of the names, the organizations, you know, the registrant details. And this disclosure is again, from the registrar to the registry for the purposes of – it's the subject to the terms and conditions of the registry and the registrar.

Now, yes, a registrant will have benefits in the particular domain name, however, those benefits may be limited by the terms and conditions and the acceptable use policy of the registry. Now, a, you know, looking at the minimum data set, the minimum data set should be transferred but there are registries out there who do not wish to have the minimum data set because it is, from their point of view, they do not need.

So it comes specifically, from my instance is a good example, Spec 11.3(b) for me is interpreted that I must interact with the specifically to prevent abuse in certain areas within my zones. And I interpret that as if a registrar who will

always have first dibs on dealing with abuse, does not deal with it then I am somewhat obliged to then also follow up as a registry. So my contract is interpreted by me as a registry that I should be able to have that data, to contact that registrant in order to apply my terms and conditions, which is a limit on their benefits and enjoyment of that domain because again, my terms and conditions, my AUP, does not give them a carte blanche to use that domain.

So and then take another registry, who might interpret that differently and say well I don't actually need that data in order to achieve that; I have a different way of doing that. And this is where we're coming into the concept of a joint controllership. Yes, we have this basic concept that we must fight abuse but we do it in a way that we have extra control and interpretation over. But the important thing here is that the disclosure may occur between a registry – between a registrar to a registry and that is how the registry would collect that data.

So that's the important change in the data flow for 1b. And it is definitely something that is very much different from 1a and that is why it was important for us to break between 1a and 1b. Let me just see just – Sarah is saying, “1b is the registrant’s own use of the domain and to the access to nonpublic data,” oh wait, is that the same, Sarah? But, yes so I think – I don't need to go – obviously we need to have a discussion and think about the inclusion of the responsibilities parties and the legal basis.

But the important thing is what data elements are necessary and should they be disclosed to the registry in this instance? And that’s what we were getting at with this one. Does that ignore pretty much or is that cut to the chase enough? Also, for the record, that’s my dog in the background snoring; nothing else.

Berry Cobb: No problem. Thank you, Alan. I think that kind of cuts to the chase. Again, I'm – try to be a stickler for details and so looking at element tables themselves, and again not focusing in on the processing activities above, but when I look at what you presented here, especially under PA2, the transfer of data from the registrar to that registry in our initial report the first part from “domain name” down to “registry/registrar ID” was still shown as data that is either transferred or generated, granted, some is generated at the registry, some is generated at the registrar and either you may have some of that data or not. But in effect, one way or another, the registry has that data set.

And then what, you know, again from the initial report, and I understand your rationale for continuing in PA2 for the nonpublic Whois data such as the registrant name, you're placing that as optional because again it depends on the registry itself but from the initial report none of this was included. So we just need to be able to document that rationale change, you know, more than just making a change here with numbers on the data element table. That does need to be better explained up in the processing activity row so be it.

But and again just a very precise one, looking at Disclosure under PA3, the domain name is again not listed there but we're, you know, it's popping up under Retention, so it's those kind of subtleties that make me question the logic. So I'll stop there and, Marc, please go ahead.

Alan Woods: Marc, maybe just before you come in there can I perhaps just address to them?

Marc Anderson: Of course.

Alan Woods: Thank you. So, yes, no you're right, I think something went awry with the domain name because, yes, I mean, clearly I think somehow that got deleted

and we just didn't notice so, yes, the domain name clearly on that one. So this whole – I mean, the whole point of splitting – and this is just to, you know, a timeline sort of a concept, you're saying that it wasn't in the initial report, well no it wasn't, of course it wasn't because this was a suggestion from the Registries as public comments to the report.

So, you know, it wouldn't have been in the initial report; we're trying to point out that there was a flaw in it and that we needed to address that flaw. So I agree, it wasn't in the initial report, we're suggesting it now and didn't we discuss it in Toronto and this is just the additional information – this is the workbook that we didn't provide to you in time unfortunately because – and again, it was that difficult.

But I will say, and looking at this now, it would make sense to me that disclosure and publication – disclosure – depending on what disclosure means and again this is the definition issue, depending what disclosure means if it optional for the transfer probably looking at this now would make sense for me to make it optional under disclosure as well. And again, that's probably just an oversight as well but it would make sense to me.

Berry Cobb: All right, thank you, Alan. And I'll note that also on our agenda to talk about our legend designation change, whether we should do ones or Rs and all of that but we'll get to that. Marc, please go ahead.

Marc Anderson: Thanks, Berry. It's Marc. You know, Alan put all that brilliantly; no disagreements with what he said. You know, I wanted, you know, also just, you know, sort of, you know, so I'll say, Berry, you said, you know, you apologized for being, you know, sticklers about some of these things, you know, and Berry, now is the time to be a stickler about it so, you know, please don't apologize, you know, we appreciate your good work and attention to

detail on these things and, you know, and, you know, if something is inconsistent or looks wrong, you know, please flag it.

We're not infallible and these were group edited and worked on documents. So, you know, when you have multiple people making edits to documents over a period of time, you know, things can happen, so please flag issues as you see them.

You know, and I just, you know, just to, you know, I don't want to, you know, beat a dead horse but, you know, we debated within the Registries as how to account for, you know, differing, you know, business models with how registries operate. And, you know, if you have, you know, a registry that's, you know, perfectly fine and comfortable operating without that data then we shouldn't be, you know, forcing them to have that data transferred to them without a legitimate basis under GDPR.

And, you know, if on the other hand you have a registry that, you know, that needs that data in order to fulfill their contract in order to operate their TLD, then we need to make sure that, you know, we have a mechanism in this policy that accounts for that. And so a lot of the work and back and forth that went into these worksheets and the final product was to try and – try and account for differing business models and TLDs that don't operate in exactly the same manner.

And so hopefully we've accomplished that. We have some flexibility but yet, you know, still clearly outlined, you know, what is required and how this can be compliant under GDPR. And like I said, you know, agree that, you know, there may be, you know, there may be some imperfections in this work product but, you know, I appreciate, you know, appreciate that, you know,

we're reviewing it and taking that time to go through all this detail now. So thank you.

Berry Cobb: Thank you, Marc. And, before I turn it over to Alex I'll just kind of tack onto this is just to remind you again that when we get to a more mature redraft of Annex D, whatever that looks like, you know, I'll be compiling these data elements again by processing activity into these consolidated workbooks. And so, you know, when we compare the before and after, you know, there's likely going to be some good shift or some dramatic shifts I should say and I think it'll pop into your head then about why I'm questioning some of these logic changes. And so thank you, Marc, for kind of the vote of confidence for interjecting. Alex, please go ahead.

Alex Deacon: Thanks, Berry. It's Alex. I was just kind of looking at this new 1b and with the full understanding that this is Purpose 1 and not Purpose 2. It seems to me that the disclosure column, APA3, or perhaps more specifically in Berry's – in the diagram above it, that the disclosure in this case is not to Internet users but to the registrant itself. I think if I'm understanding things that would be clear and I think more precise, is that not the case?

Berry Cobb: Thank you, Alex. I'll just – I'll note that the graphic up above again was the very first generation rendition and again, under the general assumption, you know, that disclosures were really happening external to the registrant, the registrar, the registry or ICANN, that, you know, disclosure again was more in the genre of some sort of publicly available directory and/or you know, in general again some sort of third party with legitimate access that should be disclosed.

Again these are topics that we'll get into in our next agenda a little bit deeper. That was the original impression so, you know, based on the changes that are

being proposed here in 1a and 1b, then yes, we should be re-asking the question as if a – if the disclosure processing activity is required either we should be better documenting as to who that data is being disclosed to.

Alex Deacon: Okay, so this is Alex again. So I think if that's the case then as this is a purpose that specific to the registrant, it seems to me that the disclosure in this case would be to the registrant itself and not any third party that would be covered in Purpose 2, at least that's the way I see it.

Berry Cobb: Noted, Alex. And when I talk about my homework assignment letter I'll circle back around. All right so let's go ahead and jump on into the next part of our agenda. I'm not really going to talk about Recommendation 5 specifically, it's going to come up in a little bit. The definitions of processing activities, I think maybe let's try to just continue that over the list unless you think that we need to.

And – or we can certainly come back to it a little bit in the agenda. But what I do want to bring up which I guess kind of continues on with what Alex brought up about disclosure, is I do want to bring up the throwaway Purpose 2 workbook that I put together. And hopefully that'll help us confirm how we want to move forward with again kind of the logic and structure of our other (unintelligible).

So remind you kind of the original idea of this document, and again was based on conversations that we had before, so the first thing that I'll just highlight, which I think we kind of resolved based on the example that Alan Woods had put into the statement that was placed into the lawful basis section, that we're still going to more or less maintain our original structure in the processing activities, that's, you know, typically we're not going to necessarily break out a collection by the registrar versus the registry is that we can perhaps, you

know, specifically documenting that when a registrar transfers data to the registry they are conducting the processing activity of transferring that data in the same time the registry that is receiving that data from the transfer is in effect collecting the data.

And while that level of detail may be required for better mapping our data flows, at least for the purposes of our workbooks today, that we can get by with that comment Alan made in the bottom. And I'll just bring it back up again just so that we understand exactly what he was trying to do here.

And if I understood correctly that perhaps it could be a stopgap measure that would – that would give us some flexibility to not have to go into this level of documentation but specifically, for example, collection for APA1, Alan put, “Note that registry’s collection of data occurs only when the data is disclosed to them by the registrar via a different processing activity, which in this case would be PA2 showing the transfer.” Perfect.

So, Marc said I nailed it. Any concerns with that kind of logic component that I can move forward in our (unintelligible)? And I guess really the only real quick, is there a way that I could document this in the introductory section of the workbook so that it applies globally or is it more imperative that we repeat this note for each one of the different processing activities that we're mapping throughout our purposes? Did that question make sense?

Okay, let me try to explain it just a bit better. My hope is that instead of repeating this example note that Alan placed here, instead of repeating it in every processing activity across all of our workbooks, can I sufficiently create a footnote of sorts of a bullet that applies macro across all our purposes workbooks? Just – I'm trying to avoid duplication. If that sounds too confusing then I'll just repeat it for our other, you know, processing activities.

I'm just trying to save a step. Any thoughts or concerns if I try the global attempt? Alan, please go ahead.

Alan Woods: Yes, sorry, Berry. I'm here with my head held because I'm just – I'm trying to get my head around what you're saying. Perhaps just going back to the thing of, right, now I'm completely lost as to what we're trying to achieve in these workbooks. I mean, maybe – can I just ask a really, really, really basic question which, and let's pretend that we've started day 1 in July, what's the purpose of this workbook then?

I mean, because the way that, in my mind, that these workbooks were created was that they were an attempt to create a data flow per purpose. And it just – they just melded into this weird hybrid data flow data elements thing. So if all we're trying to achieve here is to highlight what the data elements are, then that worked fine because we don't need to go into the ins and outs of the actual data flow and the data process.

But if we're trying to attempt say this is the purpose, this is the – from the data is collected to the data is deleted, this is what happens to that data, this is who it goes through, this is what data elements we're talking about for this specific purpose, well then no, because we would need to make a much more complex document for that. And that's my question then, what exactly is our – I've lost our purpose for these documents now and I think that's why my brain is beginning to melt. Maybe it's a result of having three hours before this, but I'm at a loss at this particular moment in time, I'm sorry.

Berry Cobb: Not a problem, Alan. And honestly I won't pretend that I have 100% command of it all either. But what I suggested in this Workbook 2 mockup based on your original intervention last Tuesday was that we needed to be

more precise about what is being collected from each of the two parties and that, you know, a transfer is in fact also a collection.

And so what I suggested here is PA1 and PA2 specifically are being delineated to show exactly what is being collected by a registrar, what is being collected by a registry, and in doing this format then a PA3, which is still a transfer of that data from registrar to registry that level of detail starts to break down the logic of what Recommendation 5 is all about which is the transfer of data from a registrar to a registry, which then is really connected to part of Recommendation 22 about how does this affect thick Whois.

And so I think in general from today's plenary call it was roughly agreed that there is indeed an impact to thick Whois but at the end of the day we know that the EPDP is still recommending that certain data elements, some of which are nonpublic types of data, are personally identifiable data, are being transferred from a registrar to a registry so that in a term that we really don't want to use anymore, thick versus thin, that transfer is still occurring.

And so that's why I'm asking specifically, do we need to go to this level of detail to distinguish a collection of data for this purpose or for any of the other purposes to the precise detail of what's happening at the registrar or registry level? Or can we keep the original intent of the workbook just that noting that the collection of registration data occurs by the registrar from the data subject and then behind the scenes this interplay between a registrar and registry while complex doesn't necessarily need to be documented to this detail that I proposed in this particular workbook.

And I don't want to spend a whole lot of time about the transfer component, really it sounds like we have a way forward based on how you documented that in Purpose 1a and 1b, and if we at least remain consistent across the other

purposes we should start to be better off than we were. But, you know, more of my discussion is probably going to be about PA4 through PA6. I'll stop there and Alex, please go ahead.

Alex Deacon: Yes thanks, Berry. It's Alex. Yes, I think your – you have a much kind of longer term or you have a much higher level view of what needs to happen for all these pieces to fit together, which I appreciate and I think is important. I think the comment I wanted to make on this, what you call throwaway template for Purpose 2 is that I think it makes sense to me. I would suggest that instead of text that says, this process, for example, in the text that you have in PA1, 2-PA1, instead of saying, "This processing activity is not required to fulfill this purpose," you would basically refer to 1-PA whatever, the collection that's done in Purpose 1a, I think now, right, which would be 1a PA1 I assume.

And you would do the same for the collection – you would do the same for PA2 and PA3. I don't think, I mean, we could duplicate the information from Purpose 1 in Purpose 2 but I think it's cleaner if you just kind of refer to them, right, if you put a reference to them versus copy and pasting them because that's where this data comes from, again, if you look at 2-PA4 it's disclosure of, and also PA5, sorry, if you look at PA4 and PA6, this is – this all goes back to data – registration data already collected. So I think that makes sense to me with my more narrow than your view of what we need to do in this specific template at least. Thanks.

Berry Cobb: Thanks, Alex. And I should have been clearer because I do agree with Alan Woods on this specifically, so when this working group originally documented Purpose 2, it basically did state that the collection of registration data, whether it's by a registrar or registry, is not necessary to fulfill this purpose. And so therefore the data element workbook did not have ones listed

below under that processing activity because it did occur under Purpose 1. And as Marc rightly pointed out, we never really flushed through that logic.

So I do want to make clear that from this point forward, and Alan, please correct me if I'm wrong, that each and every workbook across our seven purposes should now clearly delineate what data elements are going to be collected, whether it's by the registrar or registry, what data elements are going to be transferred regardless of whether that's between registrar or registry, or EBERO or escrow or whatever for other purposes, that we are considering this purpose by itself as though no other purposes exist. And so we're specifically identifying those data elements.

So I'll just note that based on that understanding that the workbook that I have below on Page 3 is wildly blank, but that was based on a misinterpretation earlier but in essence everything that we would have as showing as registered or a 1, what used to be a 1, would now continually and consistently show up on the previous processing activities of collection and transfer as we are considering this purpose independent of all other purposes moving away what we had in the first version in the initial report which was some sort of reference to collection (unintelligible).

Alan, please go ahead.

Alan Woods: Thank you, Berry. And also thank you, Berry, because I was losing all hope there and then you said what you just said there and that is absolutely correct. One clarification, we – the whole point of this is we have a purpose and we are trying to create a minimum data set for each purpose. There isn't one minimum data set. And that's very important to note.

So the whole purpose of – and now that I’m getting – of these workbooks is that we are identifying that we have this specific primary purpose for this data. We only need the minimum data set; we are going to define what that minimum data set is for this purpose alone as if all the other purposes do not exist, as you said, and absolutely correct.

And then we are going to – in order to add color to it to say whether or not the parties involved in this, regardless if they're processor, controller, whoever, that they may need to, at some point in order to fulfill this purpose, collect the data and it's appropriate for the collection, transfer the data or disclose the data which in this instance still I believe means publication – I'm still not sure but we will get to that – and also retention. So we're just saying – we're basically creating the minimum data set and the expected data flow for each purpose, nothing else.

So when people are – when we're referencing purpose, you know, 1 through whatever, no it's just this one. And if we can get just that, the data for this purpose and the flows I would be happy because that is the clarity that we need because we will look and say this is the data we need for this purpose, full stop; this is the minimum data set for this purpose, full stop; this is the amount of data that needs to be transferred, these are the data elements that are transferred, disclosed and retained, full stop.

And if we get that, that would be so much more beneficial than going off, as you said, into the weeds about processors and controllers and in that instance, yes, I mean, I think we can easily do a global thing saying for this, a collection is experienced by the registry when it is transferred by the registrar. And I think that would be fine because we're giving a higher level than that and I would be happy with that. But as long as we're clear that it's the minimum data set per purpose as well.

Berry Cobb: So thank you, Alan. And I'm getting a warm fuzzy that we're very close here; it's about (unintelligible). So I'm going to go to Alex and then maybe we can just wrap up this part but then I would like to spend some more time on the disclosure, redaction PA4 through PA7, so that I understand the last half of our logic. Alex, please go ahead.

Alex Deacon: Thanks. Okay, so I think I'm understanding now. So this specific Purpose 2, there's no collection required by the registrar, there's no collection required by the registry, the transfer is not required for this specific purpose so those columns in the data element table are blank. And so I guess just to ask a very specific question, Alan, when you said, you know, we need to kind of nail down what the minimum data set is for each purpose, the – for this Purpose 2, as it's currently outlined, the minimum data set is defined by all of the Rs in the column marked 2 PA4? Would that be the minimum data set for this specific purpose? I guess I'm trying to get more concrete here versus kind of high level.

Alan Woods: If I could redirect on that, Berry? The issue with this purpose, and I'm sorry, Alex, I'm just going to dive down into this one because Purpose 2 is probably the hardest one for us to use as a test because there is no minimum data set for this purpose because disclosure applies to every single purpose because it's not a purpose. I'm sorry – and this is how it gets ridiculous because we're trying to create a data set which relates to all other data sets. And it's – Purpose 2 is, I'm sorry, it's not a purpose, it's a use of the other data from the other purposes.

So if you're on another one, I could answer that question, but on this one, I'm at my wit's end because I cannot – I can't say any more; Purpose 2 is not a purpose, it is a use and sorry.

Berry Cobb: Thank you, Alan. I think that is a discussion for the plenary. I think there's some sort of carefully crafted agreement around (unintelligible) so we won't go there. And again, I just want to reiterate how – what is being shared in the screen is nothing close to the logic that I think we're starting to agree on here. So I almost want to take it down but for the purposes of just wanting to understand better about 4 through 7, let's assume that PAs 1 through 3 were correct and that those columns would be populated with what needs to be collected and transferred again looking at this in isolation.

And so I'm hopeful that at least 4 through 7 (unintelligible) hard to tell – is maybe a better representation of our attempt to be a little bit more precise. And so Alan, I'll ask that you set aside your opinion about this, but assuming that you did agree with it, you know, there are two things going on – and again this kind of circles back to our discussion we had last week about a minimum public data set, you know, a publicly available directory. No worries, Alan.

So when we, you know, when we read the Purpose 2 text, you know, it is pretty precise about disclosure of nonpublic data as it relates back to SSR two legitimate interest parties. And it doesn't really get into details there. But I think what our Purpose 2, as we had it listed as a workbook in our initial report, didn't properly make that distinction.

And so I was hopeful here that this suggestion may allow for a little bit more precision in that PA4 is disclosure of publicly already-collected registration data to Internet users and that it is specifically referring to this minimum public set of data whether I were to Whois query or RDAP query, a registry or a registrar, that there's some minimum set of data available and that in cases where a data element may be considered nonpublic, that it was redacted.

And so right or wrong, this – if we were to look at Purpose 2 back in our Annex D, this is the nexus or the genesis of the recommendations that exist in our final report as it relates to what fields are being redacted and there was a very small statement about a public available directory but it did not get expanded on in the report like I think it should or (unintelligible) that it should so this was my attempt.

PA5 is again about the redaction of the data so it gets into the yes or no that was in the initial report. Then there's a disclosure of the nonpublic data which really gets back into the essence of what I think that the Purpose 2 statement was trying to suggest. And then, you know, then we can talk about the retention of this data. Whether the duration of retention is correct or not, again I think that that really goes back to how Alan documented it in 1a and 1b.

My point here of talking about it is that you'll notice that the retention defined as a processing activity it didn't seem to make sense to me to try to document that as a column in our data elements table because the end point about it is that whatever data is processed within this particular purpose that is what retention of those data elements is going to be about. And so it just kind of seemed like a waste of space to try to highlight ones or dashes of what data elements would be retained within this purpose.

So anyway so now let's just quickly step down into Page 3 of the data elements table and I'll try to complete the thought process and the change here. I'm going to open it up. So the first change is right at the very top of the page.

You'll recall that our original workbooks had a 1 for if it was required, a 1 in brackets if it was optional, and then a dash, which was neither of those, got

pretty stiff feedback from Francisco that that was very confusing, and I think we all agreed here that what was listed there was confusing. So this is a first attempt at trying to make it not confusing where the R is required, O is optional. And I didn't really see a need for not applicable just versus keeping it blank when neither applied but we can go into that here.

And then secondarily, again, ignore Columns PA1 through PA3. Let's pretend that there are Rs there, that would one way or another match the last three columns. So disclose to Internet users, PA4, was this concept of a minimum public data set or directory, however we want to word it; PA5 again is understanding which of those data elements based on the agreements crafted by the plenary that would be redacted; and then lastly is PA6, but it is based on a true legitimate interest and lawful basis request, you know, what data elements would be disclosed to that legitimate interest user based on what would be collected or transferred?

So I'm hopeful especially to – well to all of you but especially to Alan that I'm trying to – that I'm hopefully catching on trying to be more precise in that. And if I am, then the idea is again to transfer that logic change or logic precision, I should say, back into our Annex D. So I'll stop there and Alex, please go ahead.

Alex Deacon: Thanks, Berry. Yes I've been thinking about your new PA4 and this purpose really is just for disclosure of I believed, nonpublic data. I need to think about it. I don't object to kind of squeezing in or bolting on access to public data in this purpose, although I suppose because public data is public data, it's not subject to the GDPR so it may not be – it may not be required but I see what you're doing here to clarify – well to make the distinction between the two.

This may come back to this concept of what I've, and sometimes Marc has referred to minimum public data set, which I think is helpful not only in this case but elsewhere too and we need to talk about that. So yes, so that's my thoughts on this one.

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

Alan Woods: Sorry, I laughed when I put my hand up because I was like oh for me as well. So yes, like generally speaking, Berry, and please, do not – do not take my comments as being negative. I'm much happier with the direction in which these workbooks are going because they now begin to make sense in my brain even just looking at them and which is, yes, feat in its own right, I mean, making something for me.

But again, I still worry about this concept of a minimum public data set. I don't think that that is something that exists. It is a minimum data set, of which certain elements may be public. As it stands, we should not be making any data elements public; they should be all redacted because we have not – and this is the part and parcel of, you know, all the discussions, you know, they're not by default public. Personal data is not public and we should never put it that way. I think it's a bit of a rabbit-hole situation if we're calling that.

Alex is talking about the disclose – PA4 and PA6 as well. I mean, I get where we're going with that, but from my point of view, so, legitimate Internet users, the disclosure for PA6, I'm trying to just figure out what the legitimate – are you saying – is this kind of like a 6.1(f) sort of a disclosure application on that because if that's the case well every single personal data piece is potentially a disclosure to a legitimate user but it is on a case by case basis.

So I think we just need to be careful that we're not over-generalizing there. I don't know what it adds. I think what may be much better, much better, good Lord, the words are gone, but I think what could be potentially better, there we go, is if we're saying that something that is accessible via RDDS or RDAP, because that's not necessarily the same thing. And again, that could be for an accredited user or not an accredited user, but something that must be published within the RDAP. I'm just spit-balling now but I don't know if PA4 and PA6 are achieving what we expect them to but I'm not – yes, I just think they're window-dressing to be honest and I don't know if they're necessary. But the rest is working very nicely in my brain so far.

Berry Cobb: All right, thank you, Alan. Appreciate that. And this is my thought process; this is definitely not a staff position or anything like that. I think in general, you know, you asked if – is PA6 a 6.1(f)? I would likely but I'm not going to give a definitive response because I'll defer to legal advice and brains much smarter than I am about what that specifically would be.

That said, my interpretation, though, and correct me if I'm wrong, is let's hypothetically say that I could hit the light switch tomorrow and some version of our consensus recommendations, you know, replace the temp spec and I'm doing a query of a domain name against a registry or registrar and let's say that it's Whois, not RDAP, that, you know, if the temp spec can be deployed in our current Whois infrastructure, and post May 24 I'm still going to be able to do a Whois query against a registry or registrar and get certain information back, and if I heard you correctly, your understanding is that that entire response would be fully redacted because we aren't specifically talking about a publicly available directory.

And I think – I'm guessing I'm misunderstanding you when you're saying that because that means that a query of a domain name goes away all together even

in some sort of publicly accessible directory. And we haven't talked about that. So I'll stop there. Marc, please go ahead, and get me out of (unintelligible).

Marc Anderson: Thanks. Thanks, Berry, it's Marc. You know, I guess, you know, from my view, you know, Purpose 2 is about, you know, access to nonpublic registration data. And so any conversation, you know, I think this harkens back to the point Alan just was making and Berry, you were talking about how we need to treat each of these in a vacuum.

And, you know, for Purpose 2, you know, Purpose 2 is, you know, I think you're right in that you said any of the data captured for other purposes is in scope of this Purpose 2 as we've defined it. I think, you know, I think as a working group we've made it clear that we consider, you know, any data collected for any of the other purposes is in scope of a third party access request as defined under Purpose 2, right? And so but that's – but Purpose 2 is solely about access to nonpublic data.

And so any of the public data discussions, you know, belong under a different purpose in my view. And, you know, really, you know, Purpose 3, you know, when we talk about, you know, we talk about, you know, Purpose 1 is, you know, is the sole, you know, is our bread and butter for what we do, you know, as registry operators, you know, as far as, you know, enabling, you know, DNS activation, allocation of a domain name. You know, 2 is, you know, sort of near and dear to everybody's heart as far as accessing the data.

But Number 3, you know, the Purpose Number 3 is enabling communication with a registered name holder, you know, this is, you know, if you break it down, you know, Purpose 3 is the purpose for an RDS-like solution. And so I think the, you know, the conversation about what data goes into, you know, a

public, you know, a public RDS solution and what data would be considered public and what data is, you know, should be redacted, and, you know, what data is public under what circumstances, what data is redacted under what circumstances, you know, I think that rightly belongs under a different purpose and, you know, when I say different purpose, you know, I mean Purpose 3.

You know, I think that's, you know, that Purpose 3 is the heart of why an RDS solution, you know, or, you know, having RDS for domain names makes sense at all. And so that's sort of my maybe world view of it. Hopefully that helps but I'll stop talking there.

Berry Cobb: Thank you, Marc. And as I mentioned in the chat, I can easily subscribe to that what I'm trying to – or what I proposed here in this throwaway draft, I could see it fitting under 3 because again, I'm trying to think about, you know, the reality is, you know, I'm some techy guy out there and I see that so-and-so's domain name is spam compromised, I'm going to do some sort of Whois or RDAP query to at the very least determine that registrar X is the registrar of record so that I could make some sort of attempt to contact the RNH that they've been compromised. So, you know, 3 or 2 you know, six one of half, half dozen of another, but I can easily live with 3. Alex, please go ahead.

Alex Deacon: Yes hi, it's Alex. Yes, I think I could subscribe to that also. I think that makes sense; Purpose 2 is the purpose to access nonpublic data. And I think purpose – it does make sense that Purpose 3 may be where we want to put this concept of accessing public data. I think that makes sense. It needs to go somewhere; that seems to be a logical place. I think if we were to suggest a new purpose that would raise some red flags in many on the team and so perhaps that's the way we tackle it. Thanks.

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

Alan Woods: Thank you, Berry. I'll try and be brief. So yes, in the – the way I'm looking at it from the RDS and the RDAP, there's a lot of data in there which isn't personal data. And I can understand how that would be published straightaway, there's no problem with that, so that's a given, so things like the registrar IANA ID, the registrar URL, things like that, you know, they would be published so I can see the value of that.

But what, you know, my point was is that if we are processing for this purpose, let's just say Purpose 3, if we are processing any personal data by default that is not public data and we cannot – we will not have that in the output, okay? What we do then, as a controller – and I'm just putting out there, the controller will come to the decision as to whether they can justify the publication of that data for the purpose and for many reasons, but it is up to them to justify.

And if it is justifiable, and they believe it is justifiable under a legal basis, especially 6.1(f) or something like that, then they may publish that. Now obviously there are people saying that that's a bad idea but they can. If they justify it then that would be available in that public output. If they cannot justify it and they do not believe publication is worthy, well then that is where it is redacted or not displayed at all. So we have to be very, very, very clear on that one, at all.

Just with regards to Purpose 3 as well, can I just also point out that the purposes are not the purposes of the person who is trying to contact the registrant, it is the purpose of the controller, therefore it is the purpose – so enabling contact of the registrant is the purpose of the controller and it is up to the controller therefore to come up with a way in which it minimizes the

impact on the data subject's rights to achieve that purpose by the processing of the data which is in their possession.

So in that instance, a good example is the use of a web form, you do not need to publish that data so this is where our minds go, I could publish the email of the registrant, but there's probably going to be an issue for us there. However, I still have that – I can process that data, use the email without publishing that email, and relay a message to the registrant. And that is a much more GDPR-applicable way of looking at Purpose 3, therefore I'm enabling contact but I'm not – I'm doing so in a way which respects the privacy of the data subject and that is by relaying the message using the data I have but not giving that data to the person who wishes to contact them.

So another thing that could be in the RDAP is we provide the detail of that particular (form), it's not giving the email address but it is enabling the contact. So that's what we need to get through this purpose workbook is saying, yes, is it necessary? Has the discussion said that it is necessary and legitimate to publish this specific data element in order to achieve that purpose? And even an email and on Purpose 3 this is not a legitimate publication. And people are just going to have to get over the fact that this is privacy by design and privacy by default and that's what the workbooks should be showing.

So I'm just going to leave it on that one. I'm sorry, it's – we're looking at this as if there was going to be a publication. No, that's not where we're coming from; we're deciding is it legitimate to publish this data element to achieve that purpose and in this instance there's a lot of plenary work on this as well, it's not. So I just need to be clear on that one.

Berry Cobb: All right, thank you, Alan. And so the first part of your comments, if I understand correctly, your view is that post-May 25 or a year down the road or whatever, that if there is any publicly available directories, and I do a query in that directory and it's not authenticating – there's zero authentication it sounds like you question that that query should even exist. But even if it did that for example, the registrant name field would not even be returned in that query even if it showed redacted; it wouldn't be returned at all. Is that an accurate statement to try to capture what I understood you said?

Alan Woods: So I think we're getting into the technicalities there that I'm not sure. I mean, in my mind – let's just say RDDS, forget about RDAP or whatever for the moment – in my mind what happens now at the moment is that we know that the registrant name field is personal data, however, we have not agreed that that is a justified disclosure of publication, therefore we redact that field. So you can put in the query, you're just not going to get that data because we do not – we cannot justify the disclosure of that data because it's personal and we do not have the authority to disclose for this reason.

If our purpose suggests that we may disclose that data and that we have justified it with a legal basis and we are okay with publishing it to the world at large, then yes, then we can unredact that data and display it, it's just we need to heed the European Data Protection Board who said, “Na-uh, that's not a good idea.” So does that make more sense?

Berry Cobb: Kind of sort of but not really. What I will be doing is going back and re-listening. Now I wish we had transcripts, but re-listening to this back part because what I understood, and, you know, again looking on Page 3 this – especially (A5) of what would be redacted, you know, absent a couple of nuances that this group has discussed, that almost matches what we see today, that for example, these certain fields under registrant fields, name, street,

email address are now being redacted and that's what would be replicated post-our EPDP recommendations being implemented.

Therefore there still is a access to a publicly available directory that doesn't require any authentication and that some subset of these fields would be returned in the query, it's just a question or not of whether certain ones that are considered personal information would be redacted. And of course he's kicked from the audio.

So anyway, I think if anything this is a very important part of the discussion that needs to happen in the plenary because regardless I don't think we did a good enough job expanding on it in the initial report and therefore I think there may be some perceptions, varying perceptions about what this really means and so if we can talk about it on Thursday maybe we can talk about it the following Tuesday based on some further work of our workbook work here.

In terms of the concept of this publicly – or minimum data set, I'll try to carry that over into 3 to see what that looks like as it didn't seem to belong in 2, noting that Alan noted that it may not fit with 3 either. But we'll get to that.

So just one last question then, so in terms of required and optional, that does seem more intuitive than the ones and zeroes, I just want to confirm that. Simple yes's or no's in the chat will work. Okay. Done.

The last thing that I would like to mention, and I'm going to move to a different document real quick, for the next version of our workbook, these data flow diagrams, assuming that across our processing activities and further refinement of our data elements do, in general and not specific to this specific purpose of Purpose 1 or not, do they provide value or should we think about

changing them or if they don't provide value, then should we just delete them out of the workbooks to be, you know, are they causing more confusion than good? So I'll open that up there.

Yes, that's a question. Are these little diagrams that accompany each purpose workbook, where I've at least attempted to label the processing activity of what's happening between the responsible party/and/or EPDP RDAP system, are these beneficial or are they more confusing than the purpose they tried to serve a while back? Marc, please go ahead.

Marc Anderson: Hey Berry, this is Marc. And just – my two cents on them, you know, I think they are useful for us within the working group. You know, I think we've found them useful today and within the working group and having them as part of the worksheets it makes sense. For people that are not part of the working group and are reading them without like explanation or the benefit of our discussions, I do not think that they are useful and it makes sense. You know, in fact I've had to sit down and try to explain them to people within my organization and so I can tell you from talking to them it just – it did not make sense without the context of our working group discussions.

Which is – which gets me to the recommendation that, you know, I think it's good and useful for us to have them for our workbooks and worksheets, but I do not think that they should be included in the final report because I don't think they stand alone without explanation very well. Thanks.

Berry Cobb: Okay, thank you Marc. So kind of split what's here. For now I'll keep a placeholder for sure that would be one of the last things on my list to do is to update them should we want to keep them that are properly reflective of the changes we've made to the logic and the processing activities and data

elements. So and we can make a decision later if they sucked and we definitely remove them for the final report.

All right last item on my list, at least for today; I guess we're already over time? So I'll make this quick then, all right, based on what I've heard today and me going and re-listening to the parts of this recording, I'm going to start making updates to 1, 2 and 3 for us to review by Thursday. And I won't claim that I got everything right but I'll try my best to get us closer to there. But for sure Purpose 1 will be split into A and B based on what was provided by the Registries; 2, based on our discussion and 3 although we didn't get into the details it's really kind of trying to continue on with this minimum public data set/publicly available directory whatever we want to call that ball right now.

I will note that that's probably the biggest action item for all of us coming out of this is how do we have that conversation with the plenary so that we set equal perceptions about what that looks like? And I know we're still in the policy layer but I think we need to have a dose of reality discussion of what that might look like conceptually at least in the real world because I think that will help improve that – the consistent perceptions across the people and the groups that are being represented here.

So the last ask then is what kind of updates should we provide to the working group on Thursday? Should we just give them a general overview of what we've tried to accomplish thus far? Or do we better – is it better use of our time to maybe have this discussion around this minimum public data set or do we try to reinforce Recommendation 5 or is it still going to be too early and maybe we try to save that for Tuesday next week because that gives us more time to perhaps get all of Annex D together?

I think at the very least we probably need a three minute update to let them know what we're doing and then perhaps more specific stuff on the following (unintelligible). Marc, please go ahead.

Marc Anderson: Thanks, Berry. I think I agree with that. We should – I've been using double negatives all day so I stop now, we should not, not say anything. So you know, we should definitely give some kind of update on Thursday but I agree, I think until we've had the discussion on 3 and 5, you know, any substantive update, you know, we can't get too far into the weeds because we're only giving an incomplete picture that I fear would bring us more questions than answers. So agree, give them a light update, you know, or provide a light update on Thursday; Thursday afternoon, we need to buckle down and get through 3 and 5 and hopefully by Tuesday we'll be ready for a more substantive update.

Berry Cobb: Agree. Thank you, Marc. If my hint wasn't subtle enough perhaps you'd like to volunteer to provide that small little update and then maybe on the large update we try to – that we punt it over to Alan to give some of the bigger logic. All right so we're over time. Thank you, everyone. I'll – you probably won't – I'll try to have something by late tomorrow night for Purposes 1, 2 and 3. It may be earlier on Thursday morning.

I think there's going to be a fair amount of changes to make into Annex D and unfortunately I need to try to maintain a master redline as much as possible but what I do share with you we'll just kind of start from a clean view and I'll just maintain the messiness in the background. So thank you, everyone, for your time. Sorry for the long day. And see you on Wednesday and Thursday and Monday, Tuesday, Wednesday, Thursday of next week. Take care. Bye.

Marc Anderson: Thanks, all.

Terri Agnew: Thank you, everyone. (Kel) the operator, if you could please stop all recordings? To everyone else, please remember to disconnect all remaining lines and have a wonderful rest of your day.

END